



Economic Impacts of Prison Growth

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Summary

The U.S. corrections system has gone through an unprecedented expansion during the last few decades, with a more than 400% jump in the prison population and a corresponding boom in prison construction. At the end of 2008, 2.3 million adults were in state, local, or federal custody, with another 5.1 million on probation or parole. Of that total, 9% were in federal custody. Globally, the United States has 5% of the world's population but 25% of its prisoners. Prison growth has been fueled by tough drug enforcement, stringent sentencing laws, and high rates of recidivism—the re-arrest, re-conviction, or re-incarceration of an ex-offender.

The historic, sustained rise in incarceration has broad implications, not just for the criminal justice system, but for the larger economy. About 770,000 people worked in the corrections sector in 2008. The U.S. Labor Department expects the number of guards, supervisors, and other staff to grow by 9% between 2008 and 2018, while the number of probation and parole officers is to increase by 16%. In addition to those working directly in institutions, many more jobs are tied to a multi-billion dollar private industry that constructs, finances, equips, and provides health care, education, food, rehabilitation and other services to prisons and jails. By comparison, in 2008 there were 880,000 workers in the entire U.S. auto manufacturing sector. Private prison companies have bounced back from financial troubles in the late 1990s, buoyed in part by growing federal contracts. Nearly all new U.S. prisons opened from 2000-2005 were private. Private prisons housed 8% of U.S. inmates in 2008, including more than 16% of federal prisoners.

The growth of the corrections sector has other impacts. A number of rural areas have chosen to tie their economies to prisons, viewing the institutions as recession-proof development engines. Though many local officials cite benefits, broader research suggests that prisons may not generate the nature and scale of benefits municipalities anticipate or may even slow growth in some localities. Record incarceration rates can have longer-term economic impacts by contributing to increased income inequality and more concentrated poverty. The problems are exacerbated by the fact that African Americans and Hispanics are far more likely than whites to be incarcerated. The large prison population also may be affecting distribution of federal dollars. The U.S. Census counts individuals where they reside. Some regions may record a significant population increase due to new prisons, meaning they garner more aid under federal population-based formulas.

The corrections sector is in stress as states seek to reduce prison populations and rein in costs. The efforts have been underway for several years, but have intensified as the recession that began at the end of 2007 has wrought havoc on state budgets. At least 26 states cut corrections spending for FY2010. California Gov. Arnold Schwarzenegger has suggested amending that state's constitution to ensure that spending on prisons cannot exceed spending on higher education. Arizona is preparing to sell prison facilities to private firms. It remains to be seen whether private companies will prosper from state efforts, or incur losses if inmate populations level out or decline. Congress is involved in the debate via federal contracts with private prisons, proposed legislation to create a task force on the prison system, increased funding to reduce recidivism, a proposed bill to allow collective bargaining for public sector correctional workers, proposals to alter rules for the 2010 Census count, and rural development efforts. Legislation introduced in the 111th Congress includes S. 2772, S. 714, S. 1611, H.R. 4080, H.R. 413, and H.R. 2450. This report will not be updated.

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Corrections a Rising Concern

The U.S. prison system has exploded in size and economic importance during the past three decades, due to a variety of factors including mandatory sentencing laws and tougher drug enforcement efforts. At the end of 2008, more than 2.3 million adults were in local, state, or federal custody, according to the U.S. Department of Justice.¹ More than 5 million more were on probation or parole.² Overall, one in every 31 U.S. adults was under the authority of the correctional system in 2007. Globally, the United States has the highest per capita incarceration rate of 218 countries and territories.³

The record U.S. prison population is creating pressures on the federal and state governments as spending on corrections claims a larger share of tax dollars, potentially crowding out public investment in other areas. There is growing concern among policymakers across the political spectrum that corrections policy may have reached a point of diminishing returns. Correctional spending has continued rising, even though the crime rate has declined or stabilized since the early 1990s.⁴ High rates of recidivism—ex-offenders coming back into the corrections sector for new offenses or violations of probation or parole—indicate that the system may not be effective as desired in deterring or rehabilitating offenders.⁵ Responding to these concerns, Congress is considering a variety of actions to alter corrections policy. While state and local governments fund and administer the bulk of corrections-related activity, the federal role is significant. For example, federal contracts are the main source of funding for the private companies. Nearly 17% of federal prisoners are housed in private prisons.⁶

During the 111th Congress, lawmakers have introduced legislation to reduce the size and fiscal impact of the corrections system and to increase scrutiny of prison operators. One measure, S. 2772 (companion bill H.R. 4080), would create a grant program to help states and localities reduce spending on corrections. Another, S. 714, would create a National Criminal Justice Commission to carry out a comprehensive review of the criminal justice system. The FY2010 omnibus spending bill (P.L. 111-117) included \$100 million, a \$75 million increase from FY2009, for programs authorized by the Second Chance Act that focus on reducing recidivism by supporting a variety of state, local, and tribal offender re-entry programs.

¹ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, Washington, DC: U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS), December 2009, p. 8. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> (viewed on April 2, 2010).

² Glaze, Lauren E. and Thomas P. Bonczar, "Probation and Parole in the United States, 2006," *Bureau of Justice Statistics Bulletin*, Washington, DC: DOJ/OJP/BJS, Revised July 2008. <http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus08.pdf> (viewed on April 2, 2010).

³ Walmsey, Roy, *World Prison Population List*, 8th ed., King's College London, International Centre for Prison Studies, 2008. http://www.kcl.ac.uk/depsta/law/research/icps/downloads/wppl-8th_41.pdf (Viewed on April 2, 2010).

⁴ Austin, James and Tony Fabelo, *The Diminishing Returns of Increased Incarceration: A Blueprint to Improve Public Safety and Reduce Costs*, The JFA Institute, Washington, DC, July 2004, p. 2. <http://www.jfa-associates.com/publications/srs/BlueprintFinal.pdf> (viewed on April 2, 2010).

⁵ CRS Report RL34287, *Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism*, by Nathan James.

⁶ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, Washington, DC: Department of Justice, Office of Justice Programs, December 2009, p. 8. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> (Viewed on April 2, 2010).

Other congressional initiatives include H.R. 413 and S. 1611 to allow public safety officers to engage in collective bargaining, and H.R. 2450, to make non-federal prisons and private facilities housing federal prisoners comply with the same public disclosure rules as other federal institutions. The Senate Judiciary Committee is reviewing mandatory sentencing laws for some drug-related crimes. Congress is also involved in oversight and funding of the expanding federal prison system.

A number of states are trying to reduce their prison populations.⁷ The efforts have been underway for several years, but have accelerated during the recession, which began in 2007 and has reduced tax revenues and forced governors and legislators to cut spending to balance their budgets. States are laying off corrections workers, releasing nonviolent prisoners, closing facilities, changing sentencing laws and considering selling prisons to private firms. More than 26 states reduced their corrections budgets for the 2010 fiscal year; additional cuts are expected for FY2011.⁸

In addition, the Congressional Black Caucus is part of a coalition that has pushed for change in U.S. Census policy. The CBC contends that the practice of counting inmates as residents of the area where they are incarcerated, rather than where they usually reside, drains federal funds that are distributed under population formulas based on Census data from needy urban areas.⁹

This report provides an economic overview of the correctional sector as background for the unfolding debate over spending and other policies. It begins with information on the growth in prison populations in public and in private prisons. It also briefly explores the economic impacts of prison location. It is not intended a study of the effectiveness of sentencing and other laws, nor of evolving policies aimed at reducing recidivism and prison populations.¹⁰

Corrections Sector

The corrections system has expanded during the past three decades into a nationwide network of businesses and workers whose livelihoods are tied to the prison system.¹¹ The nation spent \$68.7 billion on corrections in 2006, a 660% increase from 1982.¹² State governments, on average,

⁷ Lawrence, Alison, *Cutting Corrections Costs: Earned Time for State Prisoners*, Denver, CO: National Conference of State Legislatures, July 2009, p. 1. http://www.ncsl.org/documents/cj/Earned_time_report.pdf (Viewed on April 2, 2010).

⁸ Scott-Hayward, Christine, *The Fiscal Crisis in Correction: Rethinking Policies and Practices*, Washington, DC: Vera Institute of Justice, July 2009, p. 2. http://www.vera.org/files/The-fiscal-crisis-in-corrections_July-2009.pdf (Viewed on April 2, 2010).

⁹ National Urban League, "The Fight for a Fair Count in the 2010 Census," Press Release, December 18, 2009. <http://www.nul.org/content/fight-fair-count-2010-census> (Viewed on April 2, 2010).

¹⁰ For background on those issues refer to CRS Report RL32766, *Federal Sentencing Guidelines: Background, Legal Analysis, and Policy Options*, by Lisa M. Seghetti and Alison M. Smith, and CRS Report RL34287, *Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism*, by Nathan James. Another, related issue beyond the scope of this report is the expansion of prison-based industries. For more information on that topic, refer to CRS Report RL32380, *Federal Prison Industries*, by Nathan James.

¹¹ U.S. Census Bureau, *Government Employment & Payroll, 2008*. <http://www.census.gov/govs/apes/> (Viewed on April 2, 2010). The data are derived from an annual survey of state, local and federal government entities.

¹² DOJ/OJP, Bureau of Justice Statistics, *Justice Expenditure and Employment Extracts, 2006*, December 1, 2008. <http://bjs.ojp.usdoj.gov/content/glance/exptyp.cfm> (Viewed on April 2, 2010). The DOJ report is based on data from the Census Bureau's *Annual Government Finance Survey and Annual Survey of Public Employment*. The corrections population includes people in prisons, jails, and other facilities. The term prison usually refers to facilities for inmates (continued...)

spend about 7% of their general fund revenues on incarceration.¹³ During the past three decades correctional spending has risen nearly twice as fast as state spending on education, health care, and social service programs.¹⁴ In some states, for example California, the prison system now consumes a larger share of general revenues (10%) than higher education (7%).¹⁵

About 770,000 people work in U.S. prisons and jails and other institutions, and many additional workers are employed by companies that provide supplies and services to the corrections sector. States have vastly increased their prison capacity in the past 30 years. The South has the highest per-capita imprisonment rate, followed by the West, Midwest, and the Northeast. States with the largest corrections systems include Texas, Pennsylvania, Florida, California and New York.¹⁶ (See **Figure 1.**)

State and federal correctional functions are often contracted out to a network of private firms that design, build, and manage prisons, arrange financing, and provide health care, transportation, education, and other services. States and the federal officials are becoming more dependent on a small group of companies that build and manage private prisons as they search for potential cost efficiencies. Nationally, more than 8% of all prisoners are now in private institutions. In some states, however, more than 30% of inmates are in for-profit prisons.¹⁷ The federal government has nearly 17% of its inmates and detainees in private facilities. Underscoring the importance of these corporations, nearly all new U.S. prisons opened between 2000 and 2005 were developed by private companies.¹⁸

(...continued)

serving terms longer than a year, while jails house prisoners serving shorter sentences. State prisons are for violations of state laws, while federal prisons are for violations of federal statutes. Immigration review is a growing area of confinement. U.S. Immigration and Customs Enforcement (ICE) operates more than 350 U.S. prison or detention facilities either on its own or through lease arrangements.

¹³ National Governors Association/National Association of State Budget Officers, *The Fiscal Survey of the States*, December 2009. <http://www.nasbo.org/Publications/FiscalSurvey/tabid/65/Default.aspx>

¹⁴ Hughes, Kristen A., "Justice Expenditure and Employment in the United States, 2003," *Bureau of Justice Statistics Bulletin*, Washington, DC: DOJ/OJP, BJS, April 2006, p. 4. <http://bjs.ojp.usdoj.gov/content/pub/pdf/jeeus03.pdf> (These numbers are not adjusted for inflation). (Viewed on April 8, 2010).

¹⁵ State of California, Office of the Governor, "Fact Sheet: State of the State 2010—Reshaping our Priorities to Shift Funding From Prisons to Universities," January 6, 2010. <http://gov.ca.gov/index.php?/fact-sheet/14126/> (Viewed on April 2, 2010).

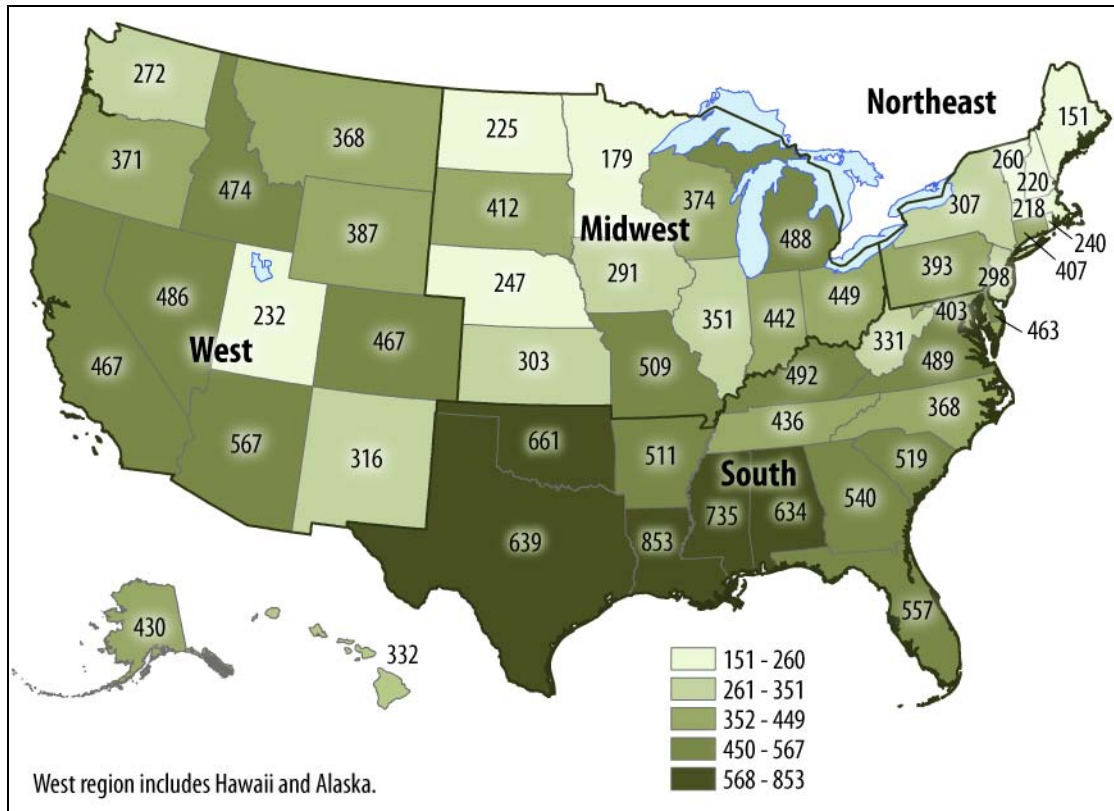
¹⁶ Stephan, James J., *Census of State and Federal Correctional Facilities, 2005*, Washington, DC: DOJ/OJP, BJS, October 2008, Appendix Table 1. <http://bjs.ojp.usdoj.gov/content/pub/pdf/csfcf05.pdf> Texas, with 132 prisons, topped the list in terms of prison facilities in 2005. Texas has been working to reduce recidivism and overhaul corrections policy. (Viewed on April 2, 2010).

¹⁷ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, Washington, DC: DOJ/OJP, BJS, December 2009, p. 10. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> (Viewed on April 2, 2010).

¹⁸ Stephan, James J., *Census of State and Federal Correctional Facilities, 2005*, Washington, DC: DOJ/OJP, BJS, October 2008, p. 1. www.bjs.ojp.usdoj.gov/content/pub/pdf/csfcf05.pdf (Viewed on April 2, 2010).

Figure 1. Imprisonment Rates, by State

Prison population per 100,000 residents



Source: Map prepared by CRS based on DOJ, Bureau of Justice Statistics, *Prisoners in 2008*, Appendix Table 10.

Notes: The imprisonment rate is the number of inmates sentenced to more than one year per 100,000 U.S. residents.

Some major investors are anticipating that private industry will assume an even larger role as state and federal officials explore potential cost savings from contracting out more correctional functions.¹⁹ California and Arizona, for example, are debating selling prisons and hiring private firms to provide services, such as inmate health care.²⁰ But if state legislatures make major changes in drug laws or other policies that reduce the number of individuals going to prison or the length of prison sentences, these private firms could face a potential reduction in profits. The federal government or state officials could experience problems if a private prison company were to face financial distress.

¹⁹ Pershing Square Capital Management, L.P., *Prisons Dilemma*, October 20, 2009, <http://www.scribd.com/doc/21624762/Bill-Ackman-s-Presentation-on-Corrections-Corp-of-America-CXW-the-Value-Investing-Congress+Pershing+Square+Capital+Management,+L.P.,+Prisons+Dilemma&cd=1&hl=en&ct=clnk&gl=us> <http://vjsm.com/investorresources/vjsm/ackman/21624762-Bill-Ackman-s-Presentation-on-Corrections-Corp-of-America-CXW-the-Value-Investing-Congress.pdf> (Viewed on April 7, 2010).

²⁰ Goldmacher, Shane and Larry Gordon, "Governor's Call for Giving Colleges Priority over Prisons Faces Hard Political Tests," *Los Angeles Times*, January 7, 2010. <http://articles.latimes.com/2010/jan/07/local/la-me-education-prison7-2010jan07> (Viewed on April 8, 2010).

Prison populations in a number of states are beginning to stabilize, according to recent data, though the federal system continues to expand. The number of immigrants held by the federal government, for example, rose from 19,515 in 2000 to 34,161 at the end of 2008.²¹ President Obama's FY2011 budget calls for a 9% increase from FY2010 in federal funding for detention, predicated on an increased prison population.²² Federal contracts are now the largest source of revenue for several of the nation's major private prison firms, including the Corrections Corporation of America and the GEO Group.

The prison expansion has other economic impacts. Many rural towns and counties have vied for prisons and the jobs they create, offering financial incentives or even floating bonds to build "speculative" prisons.²³ Recent research questions whether prisons deliver promised economic benefits, and whether some towns have bet their local economies on what may be a corrections bubble that is not sustainable, with failed prison developments ending up as "half-empty white elephants marooned on the American landscape."²⁴

While reductions in crime have benefits, academics are questioning whether the system has grown so big, and is imprisoning so many nonviolent offenders, that it has reached a point of diminishing returns.²⁵ The incarceration rate has continued to increase even though crime rates have leveled off. Research indicates that individuals who serve prison time have lower lifetime earnings and are far less likely to move out of poverty than their peers who do not go to prison.²⁶ A record 1.7 million children under age 18 now have an imprisoned parent, according to the U.S. Department of Justice. Many incarcerated parents previously were main breadwinners, and the instability and increased poverty resulting from their imprisonment is leading some states to look for ways to cushion the impacts on families.²⁷

²¹ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, Washington, DC: DOJ/OJP/BJS, December 2009, p. 10. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> (viewed on April 2, 2010). For further information, see CRS Report RL32369, *Immigration-Related Detention: Current Legislative Issues*, by Chad C. Haddad and Alison Siskin.

²² DOJ, "2011 Budget Summary," *2011 Budget and Performance Summary*. <http://www.justice.gov/jmd/2011summary/pdf/doj-budget-summary.pdf> (Viewed on April 2, 2010).

²³ Speculative prisons are prisons that are built by private companies in anticipation of housing state and federal prisoners in the future. Some private prison companies are currently increasing their supply of beds, with the idea that the need by states and the federal government for more prison space will exceed the governmental entities' ability to finance and build it.

²⁴ Clement, Douglas "Big House on the Prairie," *FedGazette*, Federal Reserve Bank of Minneapolis, January 2002. http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=2048 (Viewed on April 2, 2010).

²⁵ Austin, James and Tony Fabelo, *The Diminishing Returns of Increased Incarceration: A Blueprint to Improve Public Safety and Reduce Costs*, The JFA Institute, July 2004, p. 2. <http://www.jfa-associates.com/publications/srs/BlueprintFinal.pdf> (Viewed on April 2, 2010).

²⁶ Western, Bruce and Becky Pettit, *Incarceration and Social Inequality*, Workshop in Race and Inequality, December 8, 2009. <http://www.econ.brown.edu/econ/events/daedalus01.pdf> (Viewed on April 2, 2010).

²⁷ Christian, Steve, *Children of Incarcerated Parents*, National Conference of State Legislatures, March 2009. <http://www.ncsl.org/documents/cyf/childrenofincarceratedparents.pdf> (Viewed on April 2, 2010).

U.S. Corrections System

The U.S. prison system has gone through a number of changes during its history, as different theories about punishment and rehabilitation moved to the fore or faded. Business interests have played a role in the U.S. justice system since its earliest days, when entrepreneurs arranged to transport convicted felons from Europe to the colonies to work as indentured servants.²⁸ Initially prison was not the preferred form of punishment in Colonial America. Flogging, public humiliation, and banishment were common penalties, and execution was imposed for a wide range of offenses.²⁹ After the Revolutionary War, the nation began experimenting with different approaches, and by 1820 most states had limited capital punishment to the most serious offenses. Incarceration became the strategy for rehabilitation and reform, not just retribution.³⁰

The first U.S. state prison was established in Philadelphia in 1790. Other prisons followed, with an emphasis on rehabilitation through solitary confinement, daily work and discipline.³¹ The nation was considered a world leader in corrections policy, a point underscored by Alexis De Tocqueville's famous 1831 visit to the United States, originally conceived to study the prison system. The idea that enlightened prison management could bring about individual, as well as broader social change, began to break down around the time of the Civil War as institutions became overcrowded, more prisoners were sentenced for violent crimes, and immigrants, a focus of discrimination, became a growing share of the prison population.³² During Reconstruction, the Convict Lease System was developed. Inmates were leased to private companies to build railroads and roads, and for mining, logging, and other labor. States were paid a fee by lessees who agreed to feed, clothe, and house the prisoners. Conditions were often brutal, with high mortality rates.³³

The New York Prison Society in 1867 commissioned what became an influential *Report on the Prisons and Reformatories of the United States and Canada*. The report advocated ending widespread forms of physical punishment and moving away from fixed or mandatory sentences. New York's Elmira Reformatory became a laboratory for such theories, with indeterminate sentencing, parole, and educational programs. The late 1800s saw the rise of the federal prison system. Construction of the first federal prison, at Leavenworth, KS, began in 1897.³⁴ After a series of scandals including torture, death and gross mistreatment of predominately African

²⁸ Austin, James and Garry Coventry, *Emerging Issues on Privatized Prisons*, Bureau of Justice Assistance, Washington, DC: DOJ/OJP, February 2001, p. 9. <http://www.ncjrs.gov/pdffiles1/bja/181249.pdf> (Viewed on April 2, 2010).

²⁹ Morris, Norval and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society*, Oxford: Oxford University Press, 1995, p. 112.

³⁰ Pillsbury, Samuel, H., "Understanding Penal Reform: The Dynamic of Change," *The Journal of Criminal Law and Criminology*, vol. 80, No. 3, Autumn 1989, P. 730.

³¹ Morris, Norval and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society*, Oxford University Press, 1995, p.117.

³² Ibid, p. 127; Pillsbury, Samuel, H., "Understanding Penal Reform: The Dynamic of Change," *The Journal of Criminal Law and Criminology*, vol. 80, No. 3, Autumn 1989, P. 730.

³³ Morris, Norval and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society*, Oxford: Oxford University Press, 1995, p. 176.

³⁴ Ibid, p. 87.

American prisoners, states in the 1920s moved to abolish the convict lease system, which had become particularly entrenched in the South.³⁵

In 1965, President Lyndon Johnson, fresh off a presidential campaign in which he was attacked as soft on crime, commissioned a study on the U.S. corrections system. The 1967 report of the President's Commission on Law Enforcement and the Administration of Justice recommended more federal aid to state and local governments.³⁶ In 1968, Congress passed the Omnibus Crime Control and Safe Streets Act (P.L. 90-351) that included grants to state and local governments for training law enforcement personnel, prison construction, and education. The 1960s saw the rise of the prisoners' rights movement as prisoners won more protections via the courts.

Prisoner Boom

The U.S. prison population remained relatively stable through many of these policy changes. Imprisonment rates even declined in some periods, including during wars when large numbers of men were drafted.³⁷ (See **Figure 2**.) In 1925, there were fewer than 100,000 inmates in state and federal prisons. By 1975, the figure had grown to about 241,000.³⁸ Because the nation's population rose during that period, the imprisonment rate—a measure of the number of prisoners relative to the general population—remained stable at about 100 prisoners per 100,000 people.³⁹

The prison population began to climb in the late 1970s as states and the federal government cracked down on crime. One turning point was New York State's 1973 imposition of mandatory sentencing laws for drug offenses, under the administration of Gov. Nelson Rockefeller.⁴⁰ Other states followed. Initiatives included mandatory sentences for repeat armed career criminals. Congress, in the Sentencing Reform Act of 1984 (18 U.S.C. 3651), repealed federal courts'

³⁵ Florida Department of Corrections, *Florida Corrections: Centuries of Progress, Timeline 1821-2003*, <http://www.dc.state.fl.us/oth/timeline/1921.html> (viewed on April 2, 2010). Bureau of Justice Statistics, *Prisoners 1925-1985*. Washington, DC: Bureau of Justice Statistics, 1986; Curtin, Mary Ellen, "Convict-Lease System," *Encyclopedia of Alabama*, Auburn University and Alabama Humanities Foundation, January 22, 2010. <http://www.encyclopediaofalabama.org/face/Article.jsp?id=h-1346> (viewed on April 2, 2010).

³⁶ Feucht, Thomas E. and Edwin Zedlewski, "The 40th Anniversary of the Crime Report," *NIJ Journal*, DOJ/OJP, National Institutes of Justice, No. 257, June 2007. <http://www.ojp.usdoj.gov/nij/journals/257/40th-crime-report.html#commission> (viewed on April 2, 2010).

³⁷ Austin, James, *Reducing America's Correctional Populations: a Strategic Plan*, National Institute of Corrections, 2009, p. 2. <http://www.nicic.gov/PopulationReduction> (viewed on April 2, 2010); Bureau of Justice Statistics, "State and Federal Prisoners 1925-1985," *Bureau of Justice Statistics Bulletin*, October 1986. Note: The DOJ Bureau of Justice Statistics prior to 2006 used the term incarceration rate to refer to the total number of inmates in custody in state or federal prison or local jails per 100,000 population as well as the number of sentenced prisoners per 100,000 population, where sentenced prisoners was defined as those sentenced to a term of a year or more. The BJS recently altered its terminology. Incarceration rate now refers to the total number of inmates, while the imprisonment rate refers to inmates sentenced to a year or more.

³⁸ DOJ/OJP, Bureau of Justice Statistics, "State and Federal Prisoners, 1925-1985," *Bureau of Justice Statistics Bulletin*, October 1986.

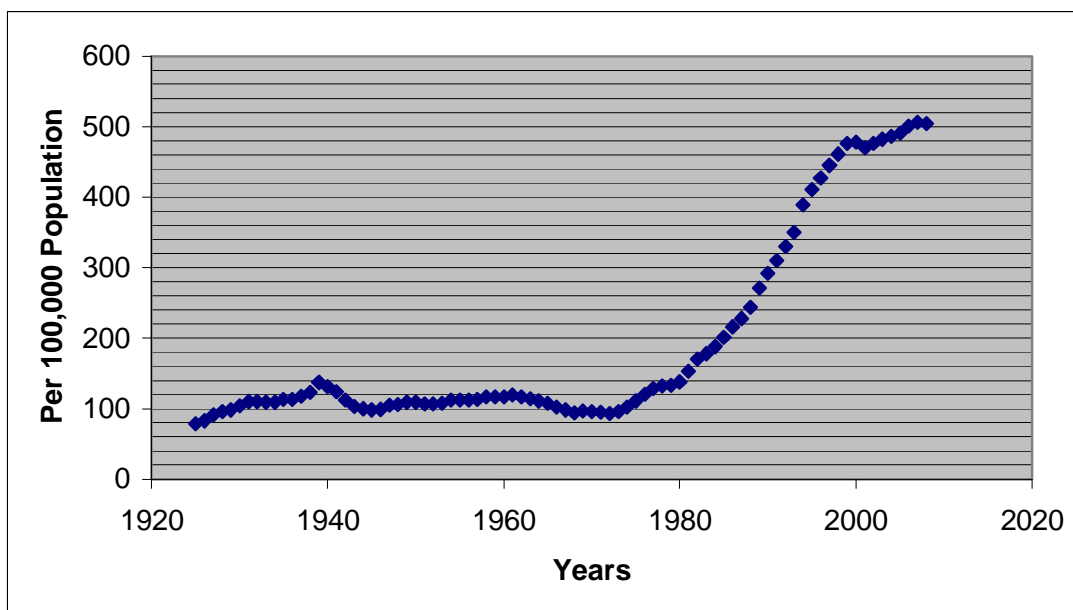
³⁹ Blumstein, Alfred and Allen J. Beck, "Population Growth in U.S. Prisons, 1980-1996," *Crime and Justice*, vol. 26, 1999, p. 19. <http://www.jstor.org/stable/1147683>; Michael J. Brown, Kentucky Justice & Public Safety Cabinet Secretary, "Population Trends and Cost Drivers," Presentation to National Governors' Association. <http://www.nga.org/Files/pdf/0805SENTENCEPRES4.PDF> (Viewed on April 7, 2010).

⁴⁰ Tinto, Eda Katharine, "The Role of Gender and Relationship in Reforming the Rockefeller Drug Laws," *New York University Law Review*, 76 NYUL, 2001, p. 911. http://heinonline.org/HOL/Page?handle=hein.journals/nylr76&div=31&g_sent=1&collection=journals#931 (Viewed on April 2, 2010).

authority to suspend criminal sentences and made other changes.⁴¹ In 1994, California voters and legislators approved Proposition 184, the so-called Three Strikes Law. Among other things, the law set a minimum sentence of 25 years to life for three-time offenders with prior serious or violent felony convictions.⁴²

Figure 2. U.S. Imprisonment Rate, 1925-2008

Number of prisoners per 100,000 residents



Source: Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, and Bureau of Justice Statistics, "State and Federal Prisoners 1925-1985," Washington, DC: Bureau of Justice Statistics, 1986.

Notes: Chart details number of prisoners sentenced to state and federal correctional institutions per 100,000 of U.S. residents. Data from 1971 onward include adults and youthful offenders serving terms of more than one year.

⁴¹ CRS Report RL32040, *Federal Mandatory Minimum Sentencing Statutes*, by Charles Doyle, December 27, 2007.

⁴² Brown, Brian and Greg Jolivet, *A Primer: Three Strikes, The Impact After More Than a Decade*, California Legislative Analyst's Office, October 2005, http://www.lao.ca.gov/2005/3_strikes/3_strikes_102005.htm# (Viewed on April 2, 2010).

As this wave of laws took effect, the imprisonment rate—based on the number of adults sentenced to terms of more than one year—jumped from 133 per 100,000 in 1979 to 504 per 100,000 at the end of 2008.⁴³ (See **Figure 2.**) More than 2.3 million people were in the custody of state or federal prisons and local jails at the end of 2008, with another 5 million on probation or parole.⁴⁴ The United States, with 5% of the world's population, had about a quarter of all prisoners in 2006.⁴⁵

Taxpayers spent about \$68.7 billion in 2008 to feed, clothe, and provide medical care to prisoners in county jails, state and federal prisons and facilities housing legal and illegal aliens facing possible deportation.⁴⁶ From 1982 to 2002, state and federal spending on corrections, not adjusted for inflation, rose by 423%, from \$40 to \$209 per U.S. resident.⁴⁷ Corrections spending, as a share of state budgets, rose faster than health care, education, and natural resources spending from 1986 to 2001.⁴⁸ The average cost of housing a prisoner for a year was about \$24,000 in 2005, though rates vary from state to state.⁴⁹

The increase in the incarceration rate is not due just to the number of arrests, but also because people are staying in prison for longer periods of time under mandatory sentencing laws and are entering prison due to violations in probation or parole.⁵⁰ To get a sense of how the length of a sentence affects the prison population, a one-month reduction in the average length of stay of prisoners would reduce the national prison population by about 50,000.⁵¹

⁴³ Western, Bruce, *From Prison to Work*, Presentation at Brookings Institution Symposium, December 2008. http://www.brookings.edu/~media/Files/events/2008/1205_prison/1205_prison_to_work_slides.pdf (viewed on April 2, 2010); Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, Washington, DC: DOJ/OJP/BJS, December 2009, p. 16. Under another measure, which includes people in jails, as well as those in state or federal prisons, the 2008 incarceration rate was 754 per 100,000. This measure is sometimes used in studies showing the United States with the world's highest incarceration rate. Many other countries include their jail populations in their incarceration rate.

⁴⁴ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 8. The figure includes about 1.6 million people in state and federal prisons and 785,558 in jails. The total incarcerated population is 2.42 million counting those held U.S. Immigration and Customs Enforcement (ICE) facilities, juvenile facilities, and jails in Indian country.

⁴⁵ Holmes, Nigel, "Lock Up, U.S.A.," *American History*, October 2009, p. 44; Walmsey, Roy, *World Prison Population List*, 8th ed., International Centre for Prison Studies, King's College London, 2008. http://www.kcl.ac.uk/depsta/law/research/icps/downloads/wppl-8th_41.pdf (Viewed on April 2, 2010).

⁴⁶ Bureau of Justice Statistics, *Justice Expenditure and Employment Extracts, 2006*. <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1022> (Viewed on April 2, 2010).

⁴⁷ Bureau of Justice Statistics, "Justice Expenditure and Employment in the United States, 2003," *Bureau of Justice Statistics Bulletin*, April 2006, p. 2. <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1017> (Viewed on April 2, 2010).

⁴⁸ Stephan, James J., "State Prison Expenditures, 2001," *Bureau of Justice Statistics Special Report*, Washington, DC: DOJ/OJP, June 2004, p. 2. <http://www.ojp.usdoj.gov/bjs/pub/pdf/spe01.pdf> (Viewed on April 2, 2010).

⁴⁹ The Pew Center on the States, *One in 100: Behind Bars in America in 2008*, February 2008, p. 11. <http://www.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf> (Viewed on April 2, 2010).

⁵⁰ Austin, James, *Reducing America's Correctional Populations, a Strategic Plan 2009*, National Institute of Corrections, 2009. <http://community.nicic.gov/forums/storage/95/16219/ReducingCorrectionalPopulations-Austin%20white%20paper.doc> (Viewed on April 2, 2010).

⁵¹ Austin, James and Tony Fabelo, *The Diminishing Returns of Increased Incarceration: A Blueprint to Improve Public Safety and Reduce Costs*, The JFA Institute, July 2004, p. 12. <http://www.jfa-associates.com/BlueprintFinal.pdf> (Viewed on April 2, 2010).

Table I. Prisoners Under State And Federal Jurisdiction By Sentence Length, Race, And Gender, 2008

	Total	Male	Female
Prisoners by Sentence Length			
Total under jurisdiction	1,610,446	1,495,594	114,852
Sentenced to over 1 year	1,540,036	1,434,784	105,252
Estimated prisoners by Race			
White	591,900	562,800	29,100
Black	528,200	477,500	50,700
Hispanic	313,100	295,800	17,300

Source: Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009. Table I.

Note: Race data is based on prisoners sentenced to more than one year. Excludes American Indians, Alaska Natives, Asians, native Hawaiians, other Pacific Islanders and persons identifying two or more races.

Mandatory sentencing is also contributing to a bulge in the number of older inmates. More than 74,000 people age 55 or older were incarcerated at the end of 2008, with about 16,000 over the age of 65.⁵² Research suggests that prisoners develop health problems at an earlier age than the general population and older prisoners are more expensive than younger inmates. In Ohio, for example, the cost for incarcerating older prisoners in 2006 was \$81 per day, compared to \$69 for the general prison population.⁵³ Average costs per prisoner were rising at a much faster rate for older inmates. Ohio has a special facility just for older offenders needing acute or long-term care.

Incarceration Trends

There are indications that the state prison population is beginning to stabilize, though wide differences remain from area to area. The federal prison system continues to expand, however.

The U.S. Department of Justice reported a 0.8% annual rise in the prison population in 2008—the smallest in eight years. The average rate of increase from 2000 to 2008 (1.8%) was less than a third of the rate of the previous decade (6.5%).⁵⁴ Not only was there a decrease in the number of prison admissions, there was an increase in the number of individuals released, particularly in states that have initiatives to reduce recidivism rates and prison populations.

⁵² Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, Appendix Table 13.

⁵³ Sterns, Anthony A., Greta Lax, Chad Sed, Patrick Keohane and Ronni S. Sterns, "The Growing Wave of Older Prisoners: A National Survey of Older Prisoner Health, Mental Health and Programming," *Corrections Today*, Vol. 70, no. 4 (August 2008), pp. 70-76. http://www.aca.org/fileupload/177/ahaidar/Stern_Keohame.pdf (Viewed on April 2, 2010).

⁵⁴ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 1; National Institute of Corrections, *Reducing America's Correctional Populations, a Strategic Plan*, 2009, p. 2. <http://community.nicic.gov/forums/storage/95/16219/ReducingCorrectionalPopulations-Austin%20white%20paper.doc> (Viewed on April 2, 2010). <http://www.nicic.gov/PopulationReduction>

In 28 states there was a decline in imprisonment rates in 2008, while 20 had increases and two states were flat. The largest decreases were in Massachusetts, Texas, Nevada, Wisconsin and Georgia.⁵⁵ Prison populations increased fastest in Pennsylvania, Florida, Alabama, Indiana, Arizona and Tennessee. The South has the highest per-capita imprisonment rate, followed by the West, Midwest and Northeast.

Though state prison populations appear to be leveling, the Federal Bureau of Prisons (BOP) is now operating at well over capacity and estimates that its inmate population will increase during the next several years.⁵⁶ The federal prison population, which is 215,000 in FY2010, is forecast to grow by 7,000 by the end of FY2011. President Obama's proposed FY2011 budget includes funds to fill 1,200 prison staffing positions, create additional positions and activate new facilities.⁵⁷ Further, the number of individuals held by U.S. Immigration and Customs Enforcement (ICE) increased 12.3% from 2007 to 2008, compared to a 6.6% average growth rate from 2000 to 2007.⁵⁸ There were 34,161 immigrants in detention at the end of 2008, compared to 19,515 in 2000. Immigrants are housed in about 250 state, local, and federal prisons and jails and in 41 special ICE facilities.

Kevin Campbell, a senior research analyst for Avondale Partners, LLC, in Nashville, tracks the corrections sector. He notes that the growth of the prison population has slowed significantly. But even a roughly 2% increase in the prison/detention population represents another 40,000 inmates. Campbell estimates that a 1-2% increase in the prison population comes out to another \$2.6 billion in spending annually.⁵⁹ Campbell also notes the difficulty of achieving deep cuts in prison populations. Early parole policies have backfired in states like Connecticut and Washington after recently released prisoners committed violent crimes when back on the streets.

⁵⁵ U.S. Congress, House, Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Justice Reinvestment*, Statement by Secretary Roger Werholtz, Kansas Department of Corrections, Hearing, April 1, 2009. http://appropriations.house.gov/Witness_testimony/CJS/Roger_Werholtz_04_01_09.pdf (Viewed on April 2, 2010).

⁵⁶ U.S. Congress, House, Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Major Challenges Facing Federal Prisons, Part I*, Statement by Harley G. Lappin, Director, Federal Bureau of Prisons, Hearing, March 10, 2009. http://appropriations.house.gov/Witness_testimony/CJS/harley_lappin_03_10_09.pdf (Viewed on April 2, 2010).

⁵⁷ DOJ, "Maintain Prisons, Detention, Parole and Judicial and Courthouse Security," *FY 2011 Budget Request*, Factsheet. <http://www.justice.gov/jmd/2011factsheets/pdf/maintain-security.pdf> (Viewed on April 2, 2010).

⁵⁸ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 10.

⁵⁹ Interview with Kevin Campbell, Avondale Partners, February 19, 2010.

Prison Employment

The corrections sector is a large and growing part of the labor force. According to the Census Bureau, more than 770,000 people worked in the U.S. correctional industry in 2008.⁶⁰ The U.S. Department of Labor, in its *2010-11 Occupational Outlook Handbook*, estimates there were about 620,000 guards, probation officers, prison supervisors and court bailiffs in 2008.⁶¹

The Labor Department forecasts a 9% rise in the number of corrections officers and supervisors from 2008 to 2018, compared to an overall 10% rise in the population and workforce.⁶² The Labor Department predicts, however, that the number of probation and parole specialists could grow by 19% from 2008 to 2018, faster than the average for all occupations.

There may be more emphasis in many States on rehabilitation and alternate forms of punishment, such as probation, that will spur demand for probation and parole officers and correctional treatment specialists. Additionally, there will be a need for parole officers to supervise the large number of currently incarcerated people when they are released from prison.⁶³

By way of comparison, there were 880,000 workers in the entire U.S. automobile manufacturing industry in 2008.⁶⁴

Table 2. Median Wages and Employment of Correctional Workers, 2008-2018

Category of Correctional Worker	Median Wages	Number of Workers	Projected Employment 2018	2008-2018 Employment Change
Correctional Officers/Jailers	\$38,380	454,500	497,500	9%
Supervisors/managers	\$57,380	43,500	47,200	9%
Bailiffs	\$37,820	20,200	21,900	8%
Probation Officers and Case Workers	\$45,910	103,400	123,300	19%

Source: U.S. Department of Labor, Bureau of Labor Statistics, *2010-11 Occupational Outlook Handbook*.

⁶⁰ U.S. Census Bureau, *Government Employment & Payroll, 2008*, <http://www.census.gov/govs/apes/> (viewed on April 2, 2010). The data are derived from an annual survey of state, local and federal government entities. Of that total, there are 36,770 federal correction workers, 475,587 state workers and 258,317 state employees.

⁶¹ U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS), *Occupational Outlook Handbook, 2010-11 Edition: Correctional Officers*, December 2009. <http://www.bls.gov/oco/ocos156.htm> (Viewed on April 2, 2010). The Labor Department occupational survey provides employment statistics by industry. The survey covers wage and salary workers in approximately 725,000 nonfarm establishments in 400 detailed industries.

⁶² Ibid.

⁶³ DOL, BLS, *Occupational Outlook Handbook, 2010-11 Edition: Probation Officers and Correctional Treatment Specialists*, December 2009, <http://www.bls.gov/oco/ocos265.htm> (Viewed on April 2, 2010).

⁶⁴ CRS Report RL34297, *Motor Vehicle Manufacturing Employment: National and State Trends and Issues*, by Michaela D. Platzer.

The median annual salary for U.S. prison guards and jailors was \$38,380 in May 2008. Wages are significantly higher for workers in government-run prisons than for those in facilities managed by private prison companies. Federal correctional workers had median wages of \$50,830, state workers earned \$38,850, local government employees \$37,510, and employees at private prison companies \$28,900.⁶⁵ Staffing costs are the largest share of correctional budgets, accounting for as much as 75-80% of annual costs.⁶⁶

In some states, including those with strong unions or significant overtime hours due to staff shortages, wages can be higher. The California Department of Corrections and Rehabilitation website notes that correctional officers can earn more than \$73,000 a year, along with a benefits and retirement package.⁶⁷

Training and educational requirements are generally most stringent in federal correctional facilities. The Federal Bureau of Prisons calls for entry-level correctional officers to have at least a bachelor's degree or three years of full-time experience in a related field.⁶⁸ Some state and local entities require at least a high school diploma or equivalent and may specify college credit for some positions. Workers are normally required to undergo additional, specialized training after they are hired.

A 2008 study published in *Corrections Today* magazine noted high turnover in the correctional sector and difficulty recruiting qualified personnel.⁶⁹ The study, conducted for the American Correctional Association (an industry trade group), predicted that the corrections sector would be second to the health care profession in fields most affected by a shortage of workers in coming years. It also noted that the correctional workforce was predominately white and male, at a time when women and minorities make up a larger share of the overall labor force. About 10% of correctional workers held a bachelor's degree or higher, with slightly more than a third having some college education.

Study respondents noted that inadequate pay and benefits, burdensome hours and shift work, a shortage of qualified applicants, and undesirable location of correctional facilities are factors that render recruiting difficult.⁷⁰

⁶⁵ DOL, BLS, *Occupational Outlook Handbook, 2010-11 Edition: Correctional Officers*, December 2009. <http://www.bls.gov/oco/ocos156.htm> (Viewed on April 2, 2010).

⁶⁶ Scott-Hayward, Christine, *The Fiscal Crisis in Correction: Rethinking Policies and Practices*, Vera Institute of Justice, July 2009, p. 2. http://www.vera.org/files/The-fiscal-crisis-in-corrections_July-2009.pdf (Viewed on April 2, 2010).

⁶⁷ California Department of Corrections and Rehabilitation, *Peace Officer Careers*. http://www.cdcr.ca.gov/Career_Opportunities/POR/COIndex.html (Viewed on April 2, 2010).

⁶⁸ DOJ, Federal Bureau of Prisons, BOP Career Opportunities: Correctional Officers. http://www.bop.gov/jobs/job_descriptions/correctional_officer.jsp (Viewed on April 2, 2010).

⁶⁹ Sumter, Melvina "The Correctional Work Force Faces Challenges in the 21st Century," *Corrections Today*, August 2008. http://www.aca.org/research/pdf/ResearchNotes_Aug08.pdf (Viewed on April 2, 2010).

⁷⁰ Ibid.

Unions

Many prison employees have joined unions to negotiate compensation, pension and health care benefits, and other issues. The American Federation of State, County and Municipal Employees (AFSCME) represents about 62,000 corrections officers and 23,000 corrections employees, including those working in minimum and maximum security prisons and county jails.⁷¹ States also have associations. The California Correctional Peace Officers Association (CCPOA), formed in 1957, represents more than 30,000 guards, prison personnel and parole agents.⁷² The New York Correctional Officers & Police Benevolent Association represents more than 23,000 workers.⁷³

Workers in private prison companies are far less likely to be unionized than their peers in the public sector. According to the 2008 annual report of the Corrections Corporation of America, the nation's largest private prison company, less than 5% of the firm's workers were members of trade organizations.⁷⁴ Further, some states prohibit collective bargaining by public employees.⁷⁵ AFSCME is among groups that have pushed for federal legislation to allow more public safety workers to engage in collective bargaining.

Unions have taken an active role in the current debate over state and federal correctional policy. CCPOA recently brought a lawsuit against California regarding its plan to require guards to take unpaid furloughs.⁷⁶ The New York Correctional Officers & Police Benevolent Association has run advertisements and lobbied against state Gov. David Paterson's proposal to close four minimum security prisons in 2011, warning it will endanger public safety and devastate local communities.⁷⁷ AFSCME, in a news release, claimed partial credit for the State of Minnesota's recent decision to close a private prison in Appleton, MN, while expanding operations at a state-owned facility.

Correctional unions have come under criticism for their efforts. For example, CCPOA, which has one of the largest political action committees in California, supported the 1994 "Three Strikes" ballot measure and opposed a 2004 ballot measures to limit the scope of the law.⁷⁸ Critics called the moves an effort to maintain high incarceration rates and job security for prison employees.

⁷¹ AFSCME website, *Jobs We Do, Corrections*. <http://www.afscme.org/workers/67.cfm> (Viewed on April 2, 2010).

⁷² California Correctional Peace Officers Association, Resources: Furlough. <http://www.ccpoa.org/members/resources/category/furlough/> (Viewed on April 2, 2010).

⁷³ New York State Correctional Officers & Police Benevolent Association (NYSCOPBA). NYSCOPBA Fighting Staffing Cuts and Facility Closures. <http://www.nyscopba.org/fightingclosures> (Viewed on April 2, 2010).

⁷⁴ Corrections Corporation of America, *2008 Annual Report*, p. 20. <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTg3MDJ8Q2hpbGRJRDR0tMXxUeXBIPtM=&t=1> (Viewed on April 2, 2010).

⁷⁵ CRS Report R40738, *The Public Safety Employer-Employee Cooperation Act*, by Jon O. Shimabukuro and Gerald Mayer.

⁷⁶ California Correctional Peace Officers Association, Resources: Furlough. <http://ccpoa.org/news/tags/tag/furloughs> (Viewed on April 2, 2010).

⁷⁷ Beam, Andrew, "Corrections officers use radio, TV to fight prison closings," *LegislativeGazette.com*, February 16, 2010. http://www.legislativegazette.com/Articles-c-2010-02-16-65492.113122_Corrections_officers_use_radio_TV_to_fight_prison_closings.html (Viewed on April 2, 2010); Office of New York Gov. David Paterson, "Governor Paterson Announces Agency Cuts, Facility Closures And Other Measures to Streamline Government, Save Taxpayer Dollars," Press Release, January 19, 2010. http://www.state.ny.us/governor/press/press_01191005.html (Viewed on April 2, 2010).

⁷⁸ University of California at Berkeley, Institute of Government Studies, *California Correctional Peace Officers Association*, January 31, 2008. <http://igs.berkeley.edu/library/htCaliforniaPrisonUnion.htm#Topic2> (Viewed on April 2, 2010).

The unions say their work is a legitimate exercise of political speech, borne from a desire to ensure public safety.

Prison Construction

The federal government, states, and localities have financed and built hundreds of new prisons during the past three decades in what may be one of the more concerted public works projects in recent history. The number of state and federal adult correction facilities rose from 1,277 in 1990 to 1,821 in 2005, a 43% increase.⁷⁹ For a time in the mid-1990s, the peak of the prison construction boom, a new U.S. prison opened every 15 days on average.⁸⁰ The pace of construction has begun to slow. According to the DOJ's Bureau of Justice Statistics, the number of state and federal adult correctional facilities increased 9% from mid-2000 to the end of 2005. That compares to a 14% increase from 1995-2000.⁸¹

In another shift, states and the federal government are relying more on private companies to build and run prisons. Of the 153 prisons and jails that opened between 2000 and 2005, 151 were private institutions. The number of private facilities under contract to states or the federal government rose by 57% during that five-year period.⁸² Private facilities accounted for about 23% of adult corrections institutions in 2005, compared to 16% in 2000. Nearly 17% of federal prisoners were in private prisons in 2008, compared to just 3% in 1999.⁸³

The South has traditionally had the largest concentration of facilities owned or managed by private corporations. More recently, the West has seen rapid growth in private prison development. In 2008, 10 states had more than 20% of state and federal prisoners in their borders housed in private prisons: Alaska, Colorado, Hawaii, Idaho, Mississippi, Montana, New Mexico, Vermont, and Wyoming.⁸⁴ Some states have geographically defined clusters of prisons. One such

⁷⁹ DOJ, "Prison Construction Keeping Pace with Population Growth," Press Release, August 7, 1997. <http://bjs.ojp.usdoj.gov/content/pub/press/CSFCF95.PR> (viewed on April 2, 2010); Stephan, James J., *Census of State and Federal Correctional Facilities, 2005*, Washington, DC: Bureau of Justice Statistics, p. 1. <http://bjs.ojp.usdoj.gov/content/pub/pdf/csfcf05.pdf> (Viewed on April 2, 2010).; Unseem, Bert and Anne Morrison Piehl, *Prison State: The Challenge of Mass Incarceration*, Cambridge Studies in Criminology, Cambridge: Cambridge University Press, 2008. The 2005 DOJ figures include facilities that house primarily state or federal prisoners including prisons, prison farms, prison hospitals, boot camps, community correctional centers, centers for alcohol and drug treatment, centers for parole violators and other prisoners returned to custody, institutions for juveniles and geriatric inmates. The study did not include city, county, and regional jails; private facilities that did not house primarily state or federal inmates; military or immigration facilities, institutions operated by the Bureau of Indian Affairs, U.S. Marshals Service; or hospital wards not operated by correctional authorities.

⁸⁰ Beale, Calvin L., "Rural Prisons: An Update", *Rural Development Perspectives*, vol. 11, no. 2, March 2001, p. 25. <http://www.ers.usda.gov/publications/RDP/RDP296/rdp296d.pdf> (Viewed on April 2, 2010).

⁸¹ Stephan, James J. and Jennifer C. Karberg, , *Census of State and Federal Correctional Facilities, 2000*, Bureau of Justice Statistics, August 2003, p. 2. <http://bjs.ojp.usdoj.gov/content/pub/pdf/csfcf00.pdf> (viewed on April 2, 2010). Most prisons are medium- or minimum-security facilities. Maximum-security prisons make up about a fifth of the total. Most prisons have fewer than 500 inmates, though there has been a increase in the number of institutions housing 2,500 inmates or more.

⁸² Ibid, p. 1. Private firms built 154 institutions between 1995 to 2000, out of the 204 adult correctional facilities built during that period.

⁸³ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 39.

⁸⁴ Ibid.

cluster is near Florence, AZ, where there a number of correctional and immigration facilities in a small area. Michigan's Upper Peninsula has a number of institutions, as does northern New York state, for example.

Rural Prisons

Prisons have been sited in both rural and urban counties, though the correctional building surge in the 1980s and 1990s appears to have had an outsized impact in some rural areas.⁸⁵ Nearly 60% of new prisons built from 1992 to 1994, in the heat of the prison building boom, were located in rural areas even though such counties accounted for only 20% of the population.⁸⁶ From 1980 to 1991, 213 prisons opened in nonmetro counties, housing 53% of all inmates sentenced to new U.S. prisons. By comparison, just 38% of inmates housed in older facilities were located in nonmetro places, and just 23% of the total U.S. population lived in rural areas during that period.

The Pennsylvania Legislature's Center for Rural Pennsylvania found that prisoners were one of the fastest-growing segments of the state's rural population from 1990 to 2000. In a report based on 2000 Census data, the Center estimated that the percentage of people in prisons in rural Pennsylvania rose by 187% from 1990 to 2000, compared to a 46% increase in prisoners in urban areas. In 2000, rural areas had 11 prisoners per 1,000 residents, compared to 5 prisoners per 1,000 for urban areas.⁸⁷

In a separate study, Pennsylvania State University researchers created a special data set to track U.S. prison construction through the end of 1995 and examine institutions by type of facility, location, and other indicators. They found that nearly 40% (576) of the 1,500 prisons in operation at the end of 1995 were located in rural areas. Roughly 210 of those rural prisons, 36%, were built from 1985 to 1995; the height of the prison building boom.⁸⁸ (According to Census data, 75% of the population was located in urban areas in 1990, with 25% in rural regions.)⁸⁹ Part of the reason that rural counties are home to so many correctional institutions is the fact that many communities actively competed for prisons, as an economic development strategy. (See Economic Impacts below.)

⁸⁵ Beale, Calvin, L. "Rural Prisons: An Update", *Rural Development Perspectives*, vol. 11, no. 2, March 2001, Washington, DC: Department of Agriculture, Economic Research Service. p. 25. <http://www.ers.usda.gov/publications/RDP/RDP296/rdp296d.pdf> (Viewed on April 2, 2010)..

⁸⁶ Ibid. The findings follow earlier research by Beale who found that from 1980 to 1991, 213 prisons opened in nonmetro counties. The rural prisons held 53% of all prisoners sentenced to new prisons around the country. By comparison, only 38% of inmates in older facilities were located in nonmetro places, and 23% of the total U.S. population lived in nonmetro counties

⁸⁷ The Center for Rural Pennsylvania, *Newsletter*, November/December 2001. <http://www.rural.palegislature.us/news1101.html>. The report found that from 1990 to 2000, Pennsylvania's rural county population grew by 5.4%. If prisoners were not included in the rural population count, the growth rate would have been 4.7% in rural areas—a 0.7 percentage point difference. By comparison, factoring out the prison population would have reduced the growth rate in urban counties by less than 0.2 percentage points. (Viewed on April 2, 2010).

⁸⁸ Glasmeier, Amy K. and Tracey Farrigan, "The Economic Impacts of the Prison Development Boom on Persistently Poor Rural Places," *International Regional Science Review*, Vol. 30, No. 3 (2007), p. 4. A version of this paper is available at http://www.povertyinamerica.psu.edu/products/publications/prison_development/prison_development.pdf (Viewed on April 2, 2010).

⁸⁹ U.S. Census Bureau, *1990 Census of Population and Housing*, "Population: 1790 to 1990," <http://www.census.gov/population/www/censusdata/files/table-4.pdf> (Viewed on April 2, 2010).

Prison growth is not an exclusively rural issue, but a prison site can have a major impact on a small community. The Urban Institute, in a 2004 study, looked at 10 states with the fastest-growing prison populations during the 1980s and 1990s. The study found that in those states, the majority of institutions were built in metro rather than rural areas. But in an indication of how a prison can alter the demographics of a rural area, 13 counties in the states that were studied—most of non-metro counties—inmates accounted for 20% or more of total population. All the states had at least five counties where 5% or more of the population was incarcerated.⁹⁰

Cost and Overcrowding

As the prison population has grown, states have had a hard time keeping pace. Recent data shows overcrowding is beginning to ease, though it is still a problem in a number of states. The DOJ reported that state prisons were operating at 97% of highest capacity in 2008, down from 114% in 1995.⁹¹ Still, 13 states were operating at more than 100% of highest capacity, while federal institutions were also overcrowded.⁹²

California, for example, is grappling with court orders to reduce its prison population.⁹³ The state is taking steps to deal with its problems, including transferring inmates to other states with excess capacity and building new prisons. In Pennsylvania, which registered a 9% increase in the number of prisoners in state and federal facilities from 2007 to 2008 (the largest of any state), lawmakers recently voted to send 3,000 inmates to institutions in other states until Pennsylvania can open more prisons.⁹⁴

Cornell Companies, one of the nation's largest private prison firms, in releasing its fourth quarter 2009 earnings report on February 24, 2010, noted mounting state budget pressures. But the firm said there was still sufficient state and federal business to support growth.⁹⁵ In its 2008 annual report, for example, Cornell said state and federal authorities would need 35,000 to 40,000 beds annually for the next few years, while only about 12,000 to 15,000 a year were in the pipeline. The company also predicted that the weak economy would make it harder for individuals released from prison to find work and avoid situations that could lead them back into confinement:

⁹⁰ Lawrence, Sarah and Jeremy Travis, *The New Landscape of Imprisonment: Mapping America's Prison Expansion*, Urban Institute Justice Policy Center, April 2004, p. 1. http://www.urban.org/UploadedPDF/410994_mapping_prisons.pdf (Viewed on April 2, 2010).

⁹¹ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 9. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> According to the Bureau of Justice Statistics, "Highest capacity is the sum of the maximum number of beds and inmates reported by the states and the federal system across the three capacity measures." The three measures are: *rated capacity*, *operational capacity*, and *design capacity*.

⁹² Ibid.

⁹³ *Coleman v. Schwarzenegger*, No. CIV S-90-0520 LKK JFM P, Three-Judge Court and *Plata v. Schwarzenegger*, No. C01-1351 TEH, Three-Judge Court, United States District Court for the Eastern District of California, August 4, 2009. See also: *Plata v. Schwarzenegger*, 560 F.3d 976 (9th Cir. Cal., 2009). The Order of the Three Judge Court is at <http://www.ca9.uscourts.gov/datastore/general/2009/08/04/Opinion%20&%20Order%20FINAL.pdf> (viewed on April 2, 2010). Moore, Solomon, "Court Orders California to Cut Prison Population," *New York Times*, February 9, 2009. <http://www.nytimes.com/2009/02/10/us/10prison.html> (Viewed on April 2, 2010).

⁹⁴ Sabol, William J., Heather C. West, and Matthew Cooper, "Prisoners in 2008," *Bureau of Justice Statistics Bulletin*, December 2009, p. 17; Jackson, Peter, "Pa. plans to send inmates away," *Associated Press*, November 23, 2009. http://www.philly.com/inquirer/local/pa/20091123_Pa_plans_to_send_inmates_away.html (Viewed on April 2, 2010).

⁹⁵ Cornell Companies, "Cornell Companies Reports Fourth-Quarter Earnings Above Guidance," Press Release, February 24, 2010. <http://phx.corporate-ir.net/phoenix.zhtml?c=94469&p=irol-newsArticle&ID=1395235&highlight=> (Viewed on April 2, 2010).

At core, demand for beds results from high rates of recidivism among released offenders and an increasing length of sentence for those repeat offenders. Recidivism itself is highly correlated with employment opportunities for offenders; getting a job helps keep an ex-offender straight. Moreover, the probability of employment for an ex-offender increases substantially with in-prison programs for adult basic education, substance abuse treatment and vocational training followed by re-entry via a “halfway house” program. Unfortunately, in this economy, these factors, unemployment and budget cuts to those in-prison treatment, education and vocational programs, lead one to conclude that demand for prison beds will likely remain strong, while the ability of government agencies to build their own beds remains constrained. As an industry, private corrections can provide beds quickly and cost effectively.⁹⁶

Many states are scaling back corrections spending. At least 22 states have shut institutions, reduced the number of beds, halted expansions or delayed opening new facilities, partly in response to state budget problems.⁹⁷ New York Gov. Paterson’s proposed 2011 budget calls for closing four facilities.⁹⁸ Arizona officials in December announced they would transfer some illegal immigrants from state prisons to federal custody for the final months of their sentences; the move is expected to save the state about \$6 million a year.⁹⁹ Other states are also considering transferring more prisoners who are illegal immigrants to federal custody. California Gov. Schwarzenegger in his State-of-the-State address in January 2010 recommended an amendment to the state constitution to assure that prison spending could not exceed higher education funding, a goal that would be met partially through privatizing some prisons.¹⁰⁰ It is too soon to say whether the budget problems will bring about a fundamental rethinking of the prison system, or less sweeping, temporary changes.

Financing

Though legislators have approved a number of laws instituting tougher, mandatory sentences, they have sometimes been less able to persuade voters to approve financing for the jails and prisons needed to house the rising number of offenders. Further, states may operate under debt caps that limit their ability to issue bonds. In response, state and local governments have developed new methods to finance prisons and other public institutions including courthouses, schools, and equipment. These alternative financing arrangements are generally not subject to voter approval.

⁹⁶ Cornell Companies, *2008 Annual Report*, Introduction, p. 2. <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MzM3NDI3fENoaWxkSUQ9MzIyMDEwfFR5cGU9MQ==&t=1> (Viewed on April 2, 2010).

⁹⁷ Scott-Hayward, Christine, *The Fiscal Crisis in Correction: Rethinking Policies and Practices*, Vera Institute of Justice, July 2009, p. 6. http://www.vera.org/files/The-fiscal-crisis-in-corrections_July-2009.pdf (Viewed on April 2, 2010). Not all states are in a position to close facilities. States that have taken action to reduce their prison populations have been able to carry out such moves.

⁹⁸ Office of New York Gov. David Paterson, “Governor Paterson Announces Agency Cuts, Facility Closures And Other Measures to Streamline Government, Save Taxpayer Dollars,” Press Release, January 19, 2010. http://www.state.ny.us/governor/press/press_01191005.html (Viewed on April 2, 2010).

⁹⁹ Steinhauer, Jennifer, “Arizona Prisons Plan to Transfer Illegal Immigrants to Federal Authority,” *New York Times*, December 21, 2009. <http://www.nytimes.com/2009/12/22/us/22arizona.html> (Viewed on April 2, 2010).

¹⁰⁰ California, Office of the Governor, “Fact Sheet: State of the State 2010 Reshaping our Priorities to Shift Funding From Prisons to Universities,” January 6, 2010. <http://gov.ca.gov/index.php?fact-sheet/14126/> (Viewed on April 2, 2010).

A 1999 report prepared for the Association of State Correctional Administrators spelled out some details of the alternative financing arrangements:

The issuance of general obligation bonds has been the traditional methodology for financing prison facilities, but over time there has been increasing use of revenue bonds and certificates of participation, known as COPs. In the latter two, the debt is not secured by the general obligation of the state or municipality issuing the debt, but by a pledge of the streams of revenues that are generated by use of the facility. In a corrections context the revenue streams are payments made for housing inmates in the facility (per diem or fixed payment amounts), or for the exclusive use of the facility. A revenue bond or COP transaction might be structured to also include certain tax revenues or user fees as pledged revenues. Revenue Bonds and COPs will generally not be included within the state or local government's overall debt limit.¹⁰¹

Voters have challenged alternative financing efforts in court, however. In California, for example, a citizen's group called Taxpayers for Improving Public Safety filed lawsuits challenging the constitutionality of a particular type of bonds for prison finance. The group argued that the bonds would violate California's debt limit because they had not been approved by voters. A California appeals court in March 2009 ruled that the state had the legal power to use the bonds.¹⁰²

State budget documents offer some illustrative examples of prison funding trends. In Oregon, the state's Certificate of Participation (COP) debt rose from \$191 million in FY1995 to about \$1.1 billion in FY2008. A special state advisory commission reported that the increase was "directly related to the passage of Ballot Measure 11 by Oregon voters in 1994. Measure 11 created mandatory minimum penalties for specified crimes and required that juveniles charged with certain violent crimes be tried and sentenced as adults."¹⁰³ Nearly 60% of Oregon COP obligations are related to running the state's prisons, community corrections system, and juvenile justice system.

The State of Colorado had about \$130 million of COP debt for prisons outstanding in 2008, out of a total of \$383 million in such financing.¹⁰⁴ Colorado in 2006 used COP bonds to fund a new high-security Colorado State Penitentiary. Due to a lawsuit challenging the financing system, in addition to state budget problems, the institution may not open as planned. The state is currently examining financing options to allow it to operate at least part of the prison.¹⁰⁵

Even though lease revenue and COP bonds are commonly used by states and municipalities, there can be drawbacks. The financing can be more expensive than other conventional bonds because they are viewed by investors as less secure. Even if bonds issued by a municipality are not backed by its taxing authority, a government can suffer via an impaired credit rating if it is unable or

¹⁰¹ Gold, Martin E., *Alternatives for Financing Prison Facilities*, Report for the Association of State Correctional Administrators by Brown & Wood LLP, 1999, p. iii. http://www.asca.net/documents/alt_main_000.pdf (Viewed on April 2, 2010).

¹⁰² Saskal, Rich, "California Appeals Court Upholds Lease Revenue Bond Holding, *Bond Buyer*, March 31, 2009.

¹⁰³ Oregon State Debt Policy Advisory Commission, *2009 Legislative Update*, January 9, 2009, p. 17. <http://www.ost.state.or.us/divisions/DMD/SDPAC/SDPAC.Report.2009.pdf> (Viewed on April 2, 2010).

¹⁰⁴ Colorado, Department of the Treasury, *Public Finance and Debt Issuance*. <http://www.colorado.gov/cs/Satellite/Treasury/TR/1190709088150> (Viewed on April 2, 2010).

¹⁰⁵ Alexander, Rachel, "CSP II Will Open This Year," *Canon City Daily Record*, February 19, 2010. <http://www.canoncitydailyrecord.com/Top-Story.asp?ID=12998> (Viewed on April 2, 2010).

unwilling to make scheduled payments.¹⁰⁶ On a related note, the inability or unwillingness of state and local governments to seek voter approval for prison construction has contributed to their increasing reliance on private prison companies, which have their own sources of financing and may not need voter approval to finance new prisons.

Private Sector

As federal, state, and local governments have increased spending on prisons, they have contracted with the private sector for financing, design, construction, management, and staffing of prisons, jails, and other correctional facilities. Private firms also provide services including health care, education, transportation, and counseling. Public-private partnerships are in keeping with a growing trend to contract out government services. They also reflect the long history of private sector involvement in U.S. prisons.

Table 3. Number of State or Federal Prisoners in Private Facilities, 2000-2008

Year	Total	Number of Prisoners		Percent of all Prisoners
		Federal	State	
2000	87,369	15,524	71,845	6.3%
2001	91,828	19,251	72,577	5.8%
2002	93,912	20,274	73,638	6.5%
2003	95,707	21,865	73,842	6.5%
2004	98,628	24,768	73,860	6.6%
2005	107,940	27,046	80,894	7.1%
2006	113,697	27,726	85,971	7.2%
2007	123,942	31,310	92,632	7.8%
2008	128,524	33,162	95,362	8.0%
Average annual change 2000-07	5.1%	10.5%	3.7%	:
Percent change 2007-08	3.7%	5.9%	2.9%	:

Source: Sabol, William J., Heather C. West, and Matthew Cooper, *Prisoners in 2008*, Appendix Table 18.

Note: Figures are as of December 31 for each calendar year.

¹⁰⁶ Provus, Stan, *CDFA Spotlight: Lease/Appropriation-Backed Bonds*, Council of Development Finance Agencies. <http://www.cdfa.net/cdfa/cdfaweb.nsf/pages/tlcjan2006.html> (Viewed on April 2, 2010).

Advocates of the private correctional industry call it a cost-effective means of providing safe and humane services to inmates. Private prisons, mainly minimum- or medium-security facilities, are newer, less crowded, and more technologically advanced. Critics, including labor unions, religious groups, and prisoners' rights organizations, warn of the rise of a "prison-industrial complex"—a sector dependent on government funds, with a vested interest in the continuation or expansion of the prison system. They call incarceration a core government service and worry that private companies have an incentive to stint on services or staff to increase profits. The debate has been inflamed by high-profile cases at some private prisons, including a 1998 incident when six prisoners escaped from a Corrections Corporation of America prison in Youngstown, OH. A subsequent DOJ investigation showed major problems at the facility.¹⁰⁷ More recently, several deaths and a spate of lawsuits have raised questions about the quality of care provided at facilities holding immigrants pending possible deportation, including at facilities operated by private prison companies.¹⁰⁸

A debate within the architecture and design community illustrates some of the conflict and crosscurrents regarding corrections privatization. Architecture firms have worked with state and local governments to design jails and prisons that are safer for both guards and prisoners. Innovations include placing housing around a central break room, allowing more movement and natural light, and making the exterior of jail buildings more street friendly, particularly if they are located in urban areas. The American Institute of Architects has an awards competition for justice and correctional projects. But more than 1,000 architects and designers have signed a petition calling for professionals to boycott the design, construction, or renovation of a jail or prison. The petition sponsors say the current incarceration rate is too high and the focus should instead be on finding alternatives to prison.¹⁰⁹

Further, during the past decade, some college students have urged school administrators to drop food service contracts with firms that also sell services to prisons or to divest from financial funds or products that include private prison company investments.¹¹⁰

Despite the controversy and the possibility of additional reductions in state corrections spending, investors seem to believe private prisons offers growth potential. Private prison companies have reported increased revenues in recent earnings reports.

¹⁰⁷ Clark, John L., *Report to the Attorney General: Independent Review of the Management and Operations of the Northeast Ohio Correctional Center (NEOCC) in Youngstown, Ohio, Owned and Operated by the Corrections Corporation of America (CCA)*. Washington, DC: Office of the Corrections Trustee for the District of Columbia, November 25, 1998. Available at <http://www.justice.gov/ag/youngstown/youngstown.htm> (viewed on April 2, 2010). General Accounting Office (GAO), *District of Columbia: Issues Related to the Youngstown Prison Report and Lorton Closure Process*, GAO/GCD-0086. Available at <http://www.gao.gov/archive/2000/gg00086.pdf> (Viewed on April 2, 2010).

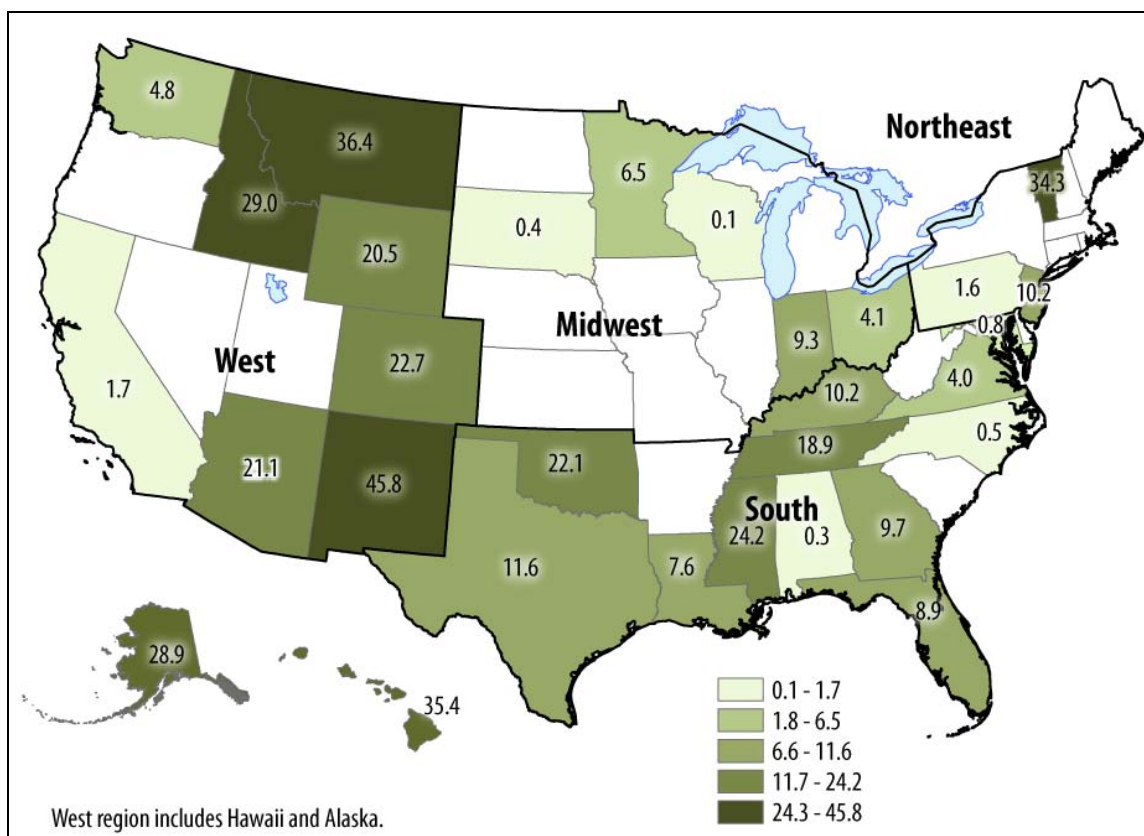
¹⁰⁸ Priest, Dana and Amy Goldstein, "System of Neglect," *Washington Post*, May 11, 2008. http://www.washingtonpost.com/wp-srv/nation/specials/immigration/cwc_d1p1.html

¹⁰⁹ Dickinson, Elizabeth, "The Future of Incarceration," *Architect*, June 2008. <http://www.architectmagazine.com/Design/the-future-of-incarceration.aspx?page=1> (Viewed on April 2, 2010).

¹¹⁰ Cray, Charlie, "Behind the Lines: No to Prison Food," *Multinational Monitor*, Vol. 22, No. 6, June 2001. <http://www.multinationalmonitor.org/mm2001/062001/lines.html> (Viewed on April 2, 2010).

Figure 3. Percentage of Prisoners in Private Prisons

Percentage of adult incarcerated prisoners in private institutions



Source: Map prepared by CRS based on DOJ, Bureau of Justice Statistics, *Prisoners in 2008*, Appendix Table 19.

Notes: Overall, 8% of all U.S. prisoners are in private institutions, including 6.8% of state prisoners and 16.5% of federal inmates.

Private Prison Companies

Private companies that build and manage prisons are probably the most visible part of the private correctional industry. The companies have been experiencing a turnaround since a slump in the late 1990s, when some ran into severe problems due to overbuilding and failed efforts to reorganize as Real Estate Investment Trusts.¹¹¹ Private prisons made up 23% of all state and federal institutions in 2005, compared to 16% in 2000.¹¹² The federal government is the biggest client of the publicly traded prison firms, accounting for about 40% of revenues at the Corrections Corporation of America in recent years and about a third of the business at Cornell Corrections, for example.

¹¹¹ Berestein, Leslie, "A once ailing private-prison sector is now a revenue maker," *Copley News Service*, May 2008, <http://www.hermes-press.com/prison0.htm> (Viewed on April 2, 2010).

¹¹² Stephan, James J., *Census of State and Federal Correctional Facilities, 2005*, Washington, DC: Bureau of Justice Statistics, p. 1. <http://bjs.ojp.usdoj.gov/content/pub/pdf/csfcf05.pdf> (Viewed on April 2, 2010).

Private sector involvement in the prison system, in its most recent incarnation, began in the 1970s when the state and municipal governments began contracting with private companies to house juveniles. It gained momentum during the 1980s as state prisons became overcrowded and the federal government turned to private institutions to house detained immigrants.¹¹³ Even though private sector involvement has grown to the point that private companies oversee 8% of all prisoners, there are conflicting data regarding whether private prisons offer either significant cost savings or increased quality. A 2007 Government Accountability Office (GAO) report said the Federal Bureau of Prisons did not collect enough detailed information to determine whether private prison companies provided long-term cost efficiencies or comparable quality, compared to the expected cost of government management.¹¹⁴ The Bureau of Prisons responded that it had sufficient data due to its previous work on the issue.

In 1996, lawmakers instructed the Bureau of Prisons to conduct a five-year demonstration project comparing the cost of public prisons versus a private prison in Taft, CA. The Bureau of Prisons did its own follow-up evaluation and also paid for an independent analysis by consulting firm Abt Associates, Inc. The two reports produced findings that were significant enough that DOJ officials in 2008 held a special meeting to discuss approaches in methodology regarding the issue.¹¹⁵ For example, the Abt report said the private Taft facility was cheaper to run than three comparable public facilities, noting that in 2002 the average cost of the public facilities was 14.8% above that of the private prison. The Bureau of Prisons found, however, that the average cost of the public facilities in 2002 was only 2.2% more than the private prison.¹¹⁶

A 2001 report commissioned by the DOJ's Bureau of Justice Assistance concluded that average savings from privatization were about 1%, due mainly to lower labor costs, compared to earlier estimates of as much as 20%. The study found that private companies could build prisons faster and more cheaply, and added that the mere prospect of prison privatization may have made prison administrators more open to certain reforms.¹¹⁷ A report by Vanderbilt University researchers (partially funded by the prison industry) indicated that private contractors can provide similar outcomes for less money.¹¹⁸

¹¹³ Austin, James and Garry Coventry, *Emerging Issues on Privatized Prisons*, Washington, DC: Department of Justice, Bureau of Justice Assistance, February 2001, p. 12. Available at <http://www.ncjrs.gov/pdffiles1/bja/181249.pdf> (Viewed on April 2, 2010).

¹¹⁴ U.S. Government Accountability Office, *Cost of Prisons: Bureau of Prisons Needs Better Data to Assess Alternatives for Acquiring Low and Minimum Security Facilities Cost*, Report GAO-08-6, October 2007, p. 4. <http://www.gao.gov/new.items/d086.pdf> (Viewed on April 2, 2010).

¹¹⁵ Gaes, Gerry, "Cost, Performance Studies Look at Prison Privatization," *NIJ Journal*, No. 259, Washington, DC: Department of Justice, National Institute of Justice, March 18, 2008. <http://www.ncjrs.gov/pdffiles1/nij/221507.pdf> (Viewed on April 2, 2010).

¹¹⁶ *Ibid.*

¹¹⁷ Austin, James and Garry Coventry, *Emerging Issues on Privatized Prisons*, Washington, DC: Department of Justice, Bureau of Justice Assistance, February 2001, available at <http://www.ncjrs.gov/pdffiles1/bja/181249.pdf> (Viewed on April 2, 2010).

¹¹⁸ Blumstein, James, Mark A. Cohen and Susan Seth, "Do Government Agencies Respond to Market Pressure? Evidence from Private Prisons," *Virginia Journal of Social Policy and the Law*, Vol. 15(3), p. 446 - 477, Spring 2008. Initial work on the study was funded in part by the Corrections Corporation of America and the Association for Private Correctional and Treatment Organizations. Later research was funded by the Owen Graduate School of Management and Vanderbilt Law School. This article is available at http://www.correctionscorp.com/static/assets/Blumstein_Cohen_Study.pdf (Viewed on April 2, 2010).

The DOJ's Bureau of Justice Assistance study also found three main differences between private and public prisons. Private prisons have lower staff-to-inmate ratios, less sophisticated information management systems, and a higher reported rate of serious incidents involving inmates.¹¹⁹ Cost savings were not significant in private prisons, according to the study.

Some state data show that private prisons have lower daily per-inmate costs than public institutions. The effectiveness of state oversight is a major factor, however. New Mexico has nearly 46% of its prison population in private facilities, the largest proportion of any state. A 2007 study by the New Mexico legislature found the state was spending more than needed on the facilities. For example, the report found that state spending on private prison contracts had increased 57% since 2001, due to features such as automatic inflation adjustments in contracts, including fixed-price construction contracts.¹²⁰

Kevin Campbell of independent investment firm Avondale Partners says costs and potential cost savings vary widely from state to state.¹²¹ Based on his analysis, some state governments have tight oversight and may post significant savings by contracting out with private firms that pay lower salaries and do not offer pension benefits equivalent to those for public workers. He also says states can realize significant savings by shipping prisoners to existing, private institutions in other states, rather than building new prisons of their own.

The federal government is now the most important single customer for private prison companies. There have been concerns that federal agencies could face problems if private firms were to encounter financial difficulties.¹²² There are also concerns in the investment community about potential liability issues as some legislatures tighten oversight of private prisons. A recent report by the Florida legislature noted continuing challenges in setting performance standards for private institutions and ensuring they provided health care and other services comparable to public institutions.¹²³ Florida in 1993 created a Correctional Privatization Commission to work with private firms to develop private prisons. The Commission was disbanded in 2005 after a series of scandals, including embezzlement and ethics violations. Responsibility for overseeing private prisons was transferred to the State Department of Management Services. States are currently making a new push to contract out prison services, and the federal government is relying more on private prisons, even though there is a lack of consensus in some areas such as how best to compare costs and quality between public and private prisons.

¹¹⁹ Austin, James and Garry Coventry, *Emerging Issues on Privatized Prisons*, Washington, DC: Department of Justice, Bureau of Justice Assistance, February 2001, p. 52, available at <http://www.ncjrs.gov/pdffiles1/bja/181249.pdf> (Viewed on April 2, 2010).

¹²⁰ New Mexico, Legislative Finance Committee, *Corrections Department: Review of Facility Planning Efforts and Oversight of Private Prisons and Health Programs*, Report #07-04, May 23, 2007. <http://www.nmlegis.gov/lcs/lfc/lfdocs/perfaudit/CorrectionsFacilities0507.pdf> (Viewed on April 2, 2010).

¹²¹ Interview with Kevin Campbell, February Feb 19, 2010.

¹²² DOJ, Office of the Inspector General, *The Department of Justice's Reliance on Private Contractors for Prison Services*, Report No. 01-16, July 31, 2001, <http://www.justice.gov/oig/reports/plus/a0116/final.pdf> (Viewed on April 2, 2010). The 2001 audit by the DOJ Office of Inspector General noted that federal entities were becoming more dependent on private prisons and stressed the need for contingency plans in the event private firms ran into financial difficulties that could make it hard for them to fulfill contracts.

¹²³ Florida, Legislature, Office of Program Policy Analysis & Government Accountability, *While DMS Has Improved Monitoring, It Needs to Strengthen Private Prison Oversight and Contracts*, December 2008, available at <http://www.opppaga.state.fl.us/reports/pdf/0871rpt.pdf> (Viewed April 2, 2010).

The Private Prison Industry

Three publicly traded private prison companies now dominate the industry and merit special attention.

Corrections Corporation of America

The Corrections Corporation of America (CCA) is the nation's largest private prison firm. The Tennessee-based company controls nearly 87,000 beds (a common capacity measure) at 65 institutions. The company owns 44 facilities and manages the rest.¹²⁴ At the end of 2008, CCA had approximately 17,400 employees. The firm reported \$1.6 billion in 2008 revenues, nearly double the \$887 million in revenues reported for 2001.¹²⁵ Federal contracts accounted for about 40% of CCA total revenue in 2008, up from 32% in 2002.¹²⁶

The company has rebounded since the early 2000s, when it took on too much debt,¹²⁷ and has increased earnings even during the economic downturn. In the fourth quarter of 2009, the CCA reported a 4% increase in revenues, compared to the same period in 2008. The company had net income of \$42.5 million, or 36 cents per share in the fourth quarter of 2009, up from 32 cents per share during the same period in the previous year.¹²⁸

The occupancy rate in CCA-owned or managed facilities, a key gauge, was 91.5% in the fourth quarter of 2009, down from average occupancy of more than 96% from 2006 to 2008. The rise in empty beds was due in part to the opening of new facilities. But the company also noted in its release that it has lost some prison contracts due to tight state budgets. CCA has been building institutions on the premise that a number of state and federal institutions are still so overcrowded that officials will have to turn to the private sector.

In its fourth quarter 2009 earnings report, CCA officials noted that company faced the risk that customers, such as the State of California, might not be able to pay their bills on time, or might ask for concessions. Todd Mullenger, chief financial officer and executive vice president, told financial analysts during a February 2010 conference call: "Debt, along with the risks that other customers delay payments are issues we will monitor ... uncertainty remains related to the general economy and around government budget deficits. This is the primary uncertainty in risk we face in 2010."¹²⁹

¹²⁴ Corrections Corporation of America, <http://www.correctionscorp.com/> (Viewed on April 2, 2010).

¹²⁵ Corrections Corporation of America, *2008 Annual Report*, p. 29 and *2005 Annual Report*, p. 11, <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-reportsannual> (Viewed on April 2, 2010).

¹²⁶ Corrections Corporation of America, *2008 Annual Report*, p. 11, <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-reportsannual>.

¹²⁷ Pershing Square Capital Management, L.P., *Prisons' Dilemma*, October 20, 2009. PowerPoint presentation at <http://www.scribd.com/doc/21624762/Bill-Ackman-s-Presentation-on-Corrections-Corp-of-America-CXW-the-Value-Investing-Congress> (Viewed on April 2, 2010).

¹²⁸ Corrections Corporation of America, "CCA Announces Fourth Quarter and Full Year 2009 Financial Results," Press Release, February 9, 2010 <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-newsArticle&ID=1385706&highlight=> (Viewed on April 2, 2010).

¹²⁹ *Seeking Alpha*, "Corrections Corporation of America Q4 2009 Earnings Call Transcript," February 10, 2010, <http://seekingalpha.com/article/187861-corrections-corporation-of-america-q4-2009-earnings-call-transcript?page=1> (Viewed on April 2, 2010).

New York-based Pershing Square Capital Management, a prominent hedge fund, in December 2009 bought a 9.5% share in CCA. Pershing Square officials in a presentation to investors described CCA as a “high quality real estate business.”¹³⁰

In recent weeks, CCA has both profited from, and been buffeted by, state spending decisions. CCA recently secured contracts to house 10,000 California inmates at CCA facilities in Arizona, Mississippi, and Oklahoma.¹³¹ But the company in December 2009 announced it would close an Appleton, MN facility that had been in operation since 1996. Minnesota is consolidating its prison population in existing state facilities. The company in January 2010 announced that the State of Arizona had decided not to renew its contract to house inmates at the CCA 752-bed Huerfano County Correctional Center in Colorado.¹³² In early January, the State of Kentucky ordered 400 female inmates removed from the CCA’s Otter Creek Correctional Complex to a state-run prison. The state acted in response to allegations of sexual misconduct by CCA guards.¹³³

Geo Group

Geo Group, headquartered in Boca Raton, FL, operates prisons and other correctional centers in the United States and overseas.¹³⁴ Geo Group owns or manages 61 facilities with 60,000 beds worldwide with more than 13,000 full-time staff. The company also operates a migrant operations center at Guantanamo Bay, Cuba, housing people caught trying to enter the United States illegally. The company provides education and mental health treatment. Revenues were \$1.14 billion in 2009, up from \$1.04 billion in 2008.¹³⁵ The firm expects revenues in the range of \$1.11 to \$1.13 billion in 2010. The company’s average occupancy rate for its corrections operations declined to 93.7% in 2009 from 95.7% in 2008.

According to the company’s 2008 *Annual Report*, federal contracts accounted for a third of the company’s revenues in 2008, with another 19% from the State of Florida and 12% from overseas operations.¹³⁶ The company views provision of mental health services as a key growth area. The firm’s GEO Care subsidiary expanded to 1,700 beds and \$113.8 million in revenues in 2007 from 325 beds and \$31.7 million in revenues in 2004.¹³⁷ GEO Group estimates the overall market for state/local mental health services at \$6 billion.

¹³⁰ Barr, Alistair, “Ackman Highlights Corrections as top real estate play,” *Marketwatch*, Oct 20, 2009, <http://www.marketwatch.com/story/fund-manager-ackman-highlights-corrections-corp-2009-10-20> (Viewed on April 2, 2010).

¹³¹ Morain, Dan, “Private prisons? A sweet deal for some,” *Sacramento Bee*, January 7, 2010, <http://www.sacbee.com/1190/story/2443722.html> (Viewed on April 2, 2010).

¹³² Correction Corporation of America, News Releases, <http://ir.correctionscorp.com/phoenix.zhtml?c=117983&p=irol-news&nyo=0> (viewed April 2, 2010).

¹³³ Gee, Brandon, “Sexual misconduct allegations threaten CCA contract,” *Nashville Business Journal*, March 1, 2010, <http://www.bizjournals.com/nashville/stories/2010/03/01/daily6.html> (Viewed on April 2, 2010).

¹³⁴ GEO Group, “Who We Are,” <http://www.thegeogroupinc.com/about.asp> (Viewed on April 2, 2010).

¹³⁵ GEO Group, “The GEO Group Reports Fourth Quarter 2009 Results and Announces \$80.0 Million Stock Repurchase Program,” Press Release, February 22, 2010, http://phx.corporate-ir.net/phoenix.zhtml?c=91331&p=irol-newsArticle_print&ID=1393451&highlight= (Viewed on April 2, 2010).

¹³⁶ GEO Group, 2008 *Annual Report*, p. 1, <http://phx.corporate-ir.net/phoenix.zhtml?c=91331&p=irol-reportsAnnual> (Viewed on April 2, 2010).

¹³⁷ GEO Group, 2007 *Annual Report*, p. 5, <http://phx.corporate-ir.net/phoenix.zhtml?c=91331&p=irol-reportsAnnual> (Viewed on April 2, 2010).

The federal government has become an increasingly important customer for the company, including growth in detaining immigrants. In a conference call to discuss fourth quarter 2008 earnings, corporate officials noted that federal contracts account for about half of corporate earnings under some measures, though they make up just 37% of revenues.¹³⁸

Cornell Companies

Cornell Companies runs prisons and juvenile detention centers and provides drug and alcohol counseling, rehabilitation, and education services. The firm has about 70 facilities in 15 states and the District of Columbia, with a total capacity of 21,392 prisoners. The company was running at average occupancy of about 91% during the fourth quarter of 2009, compared to 92% during the same period in the previous year.¹³⁹ About 34% of the company's revenues came from contracts with the Federal Bureau of Prisons in 2008. No other customer accounted for more than 10% of company revenues.¹⁴⁰

Cornell Companies' revenues increased from \$277 million in 2004 to \$412 million in 2009. Cornell expects the bulk of its future growth to come from institutions housing adult prisoners.¹⁴¹

Other Private Firms

Large firms and small businesses across the country provide essential services and products to the corrections sector, from health care to meal trays to surveillance and security equipment. Many companies that contract with prisons and jails are members of the American Correctional Association (ACA), which describes itself as an organization of "professionals representing all levels and facets of corrections and criminal justice, including federal, state and military correctional facilities, county jails and metropolitan detention centers, probation and parole agencies and community corrections/halfway houses." The ACA has 62 chapters and affiliated organizations, with more than 20,000 additional individual members.¹⁴²

The ACA website includes a marketing center with links to hundreds of firms around the country that provide services to the correctional sector. Other correctional business associations include the Detention Equipment Manufacturers Division of the National Association of Architectural Metal Manufacturers and The Association of Correctional Food Service Affiliates.

One of the biggest prison-associated growth areas is the provision of inmate health care. In the case of prisoners, the Supreme Court has held that they are entitled to adequate medical care as a component of protections accorded by the Eighth Amendment to the U.S. Constitution.¹⁴³ A 2009

¹³⁸ *Seeking Alpha*, "The GEO Group Inc. Q4 2008 Earnings Call Transcript, February 12, 2009," <http://seekingalpha.com/article/120353-the-geo-group-inc-q4-2008-earnings-call-transcript?page=1> (Viewed on April 2, 2010).

¹³⁹ Cornell Companies, "Cornell Companies Reports Fourth Quarter Earnings Above Guidance," Press Release, February 24, 2010 http://phx.corporate-ir.net/phoenix.zhtml?c=94469&p=irol-newsArticle_print&ID=1395235&highlight= (Viewed on April 2, 2010).

¹⁴⁰ Cornell Companies, *2008 Annual Report*, p. 55, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MzM3NDI3fENoaWxkSUQ9MzIyMDEwfFR5cGU9MQ==&t=1> (Viewed on April 2, 2010).

¹⁴¹ *Ibid.*

¹⁴² American Correctional Association, <http://www.aca.org/advertise/audience.asp> (Viewed on April 2, 2010).

¹⁴³ CRS Report R40846, *Health Care: Constitutional Rights and Legislative Powers*, by Kathleen S. Swendiman, p. 5.

study by Cambridge Health Alliance and Harvard Medical School illustrates the scope of health concerns, and the potential market, in U.S. correctional institutions. The researchers, using 2002 and 2004 DOJ data, found that about 40% of the two million people in U.S. prisons and jails had chronic conditions such as diabetes, asthma or heart problems—a far higher rate than other Americans of a similar age.¹⁴⁴ About a quarter of the inmates had a history of mental illness, including schizophrenia, bipolar disorder or depression, but two-thirds of those in custody were not using prescribed drugs at the time they were incarcerated.

Among private sector firms offering inmate health services is the Tennessee-based America Service Group, which owns Correctional Health Services and Prison Health Services. The company works with federal, state, and local governments, as well as private entities. America Service Group, which announced full year 2009 revenues of \$610 million, a 21% increase from the previous year.¹⁴⁵ The company had nearly 4,000 employees at the end of 2008, and estimated that it had about 6.6% of the combined private and non-private market for correctional health care. Other large, private-sector competitors include Correctional Medical Services and Wexford Health Services.¹⁴⁶

Other notable private-sector firms:

- The New Jersey-based Community Education Centers provides education, counseling, and related services to 30,000 offenders in 19 states. The privately held firm employs more than 4,000 people.¹⁴⁷
- Aramark, one of the nation's largest food service providers, operates Aramark Correctional Services at more than 600 prisons and jails, preparing more than a million meals a day.¹⁴⁸
- Tiger Correctional Services of Arkansas, which also provides food services, has doubled in size during the past several years. The company now provides food and commissary services and jail management software to 150 jails in 20 states.¹⁴⁹
- The Keefe Group, working through affiliates, supplies electronics, clothing and technology to the correctional commissary market. The company has grown to 2,000 employees from two workers in 1975. Among its products is a specialized MP3 player sold to prisons through Access Corrections, a subsidiary. The Access to Entertainment program is one of the top U.S. providers of digital music.
- Cornerstone Detention Products of Alabama builds and renovates correction facilities and sells products, such as furniture, locks, gates, and personal supplies,

¹⁴⁴ Wilper, Andrew P., Steffie Woolhandler, J. Wesley Boyd, Karen E. Lasser, Danny McCormick, David H. Bor, and David U. Himmelstein, "The Health and Health Care of U.S. Prisoners: A Nationwide Survey," *American Journal of Public Health*, Vol. 99, No. 4, 2009, pp. 666-672.

¹⁴⁵ America Service Group, "America Service Group Announces Fourth Quarter and Year End Results," Press Release, March 2, 2010, at <http://investor.asgr.com/phoenix.zhtml?c=117621&p=irol-newsArticle&ID=1397878&highlight=> (Viewed on April 2, 2010).

¹⁴⁶ America Service Group, *2008 Annual Report*, p. 8, at <http://www.asgr.com/> (Viewed on April 2, 2010).

¹⁴⁷ Community Education Centers, <http://www.cecintl.com/About/Message.htm> (Viewed on April 2, 2010).

¹⁴⁸ Aramark Correctional Services, <http://www.aramarkcorrections.com/> (Viewed on April 2, 2010).

¹⁴⁹ Tiger Correctional Services, <http://www.tigercommissary.com/about-tiger-commissary.html> (Viewed on April 2, 2010).

including toothbrushes and soap. The firm was named one of the nation's fastest growing companies in 2007 by *Inc.* magazine.¹⁵⁰

- Argyle Security Inc. provides electronic monitoring and construction services to the corrections industry. Argyle, which had about 600 full-time employees in 2008, estimated that the North American electronic security market was \$27 billion at the end of 2007, of which 67% was in the commercial-industrial area.¹⁵¹

Phone Service

Jails and prisons negotiate exclusive contracts with telephone carriers to serve their institutions. Organizations such as the National Sheriffs Association say such contractual arrangements ensure security and allow them to monitor inmate phone calls. Groups representing prisoners, including the Citizens United for the Rehabilitation of Errants (CURE) and their families, say that telephone providers often pay prison operators a high percentage of the fees they collect for prisoners' collect calls, and then charge inmates well-above general market rates for service. Groups seeking to change the system say commissions on telephone service can be as high as 45-65% of gross revenues generated by the service.¹⁵² Some states, including New York, have altered their practices in response to complaints. The Federal Communications Commission has been petitioned to set rates for inmate calls. The National Sheriffs Association told Congress in June 2009 that changing the rules could endanger public safety.¹⁵³

Economic Impact

Prisons have been viewed as an economic development tool by a number of small, rural towns. Localities see the facilities as recession-proof tools to stabilize population and employment, while spurring retailing, homebuilding, and associated activities. Rural communities have provided incentives to lure prison development, including infrastructure upgrades and bond financing. Some towns have financed and built their own prisons, counting on forecasts of increasing prison populations to fill the new cells. CCA has been expanding its inventory as well. It has been building prisons based on projections that states and the federal government will not be able to finance and build enough prison beds to alleviate overcrowding, and will have to look to the private sector for a quick solution. CCA officials term their strategy "thoughtful disciplined

¹⁵⁰ Cornerstone Detention Products. <http://www.cornerstonedetention.com/> (Viewed on April 2, 2010).

¹⁵¹ Argyle Security Inc., *2008 Annual Report*, p. 11. <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9Mzk4OHx0ZGlzZElEPS0xfFR5cGU9Mw==&t=1> (viewed April 2, 2010).

¹⁵² U.S. Congress, House, Committee on Energy and Commerce, Subcommittee on Communications, Technology and the Internet, *Legislative Hearing on H.R. 1147, the Local Community Radio Act of 2009, H.R. 1133, the Family Telephone Connection Protection Act of 2009, and H.R. 1084, the Commercial Advertisement Loudness Mitigation Act (CALM Act)*: Testimony of Frank Krogh, Representing the Washington Lawyers' Committee for Civil Rights and Urban Affairs, June 11, 2009. http://energycommerce.house.gov/Press_111/20090611/testimony_krogh.pdf (viewed April 2, 2010).

¹⁵³ U.S. Congress, House, Committee on Energy and Commerce, Subcommittee on Communications, Technology and the Internet, *Legislative Hearing on H.R. 1147, the Local Community Radio Act of 2009, H.R. 1133, the Family Telephone Connection Protection Act of 2009, and H.R. 1084, the Commercial Advertisement Loudness Mitigation Act (CALM Act)*, Testimony of Sheriff David Goad, president National Sheriffs' Association, June 11, 2009. http://www.sheriffs.org/userfiles/File/Congressional%20Testimony/Microsoft_Word_-_NSA_Sheriff_Goad_Testimony_on_H_R__1133.pdf (Viewed on April 2, 2010).

building of capacity in front of demand.”¹⁵⁴ But CCA officials add that given their thousands of empty beds they are pausing on the construction front.

There are relatively sparse data on the long-term economic impact of prison development. Some studies indicate slight economic gains for prison towns, while others suggest that rural areas that have become prison anchors may have grown less rapidly than similar counties without prisons. The idea that prisons are “recession proof” is being tested as states close prisons or release nonviolent offenders to reduce budget gaps caused by a drop in tax revenues. The state efforts have sparked politically charged debates over both public security and the impact on jobs.

The ongoing effort to transfer internees from the U.S. military facility at Guantanamo Bay, Cuba, to a U.S. prison illustrates the issues. Several U.S. rural communities with extra prison space and high unemployment rates expressed interest in taking the detainees to create or preserve jobs.¹⁵⁵ The White House in December 2009 announced the government planned to buy an underused state prison in Thomson, IL, for a joint facility to be run by the military and the Bureau of Prisons. The Illinois facility has been largely empty since it was built at a cost of \$120 million in 2001, based on projections for an increasing prison population that did not pan out.¹⁵⁶ In announcing its decision, the White House Council of Economic Advisers released a study of the potential economic impact of the facility on Thomson and surrounding areas.¹⁵⁷ The White House forecast \$1.1 billion in additional spending in northern Illinois during the first four years the facility is operational, including construction, pay, operating costs, spending by visitors to the prison, and families transferred to the area. The White House predicted the Thomson project would spur 3,180-3,880 ongoing jobs and 840-910 temporary jobs in its first four years, increasing local earnings by \$793 million to \$1.02 billion. Local citizens will be candidates for about half the jobs, which could reduce the unemployment rate in Carroll County, IL, where the prison is located, by two percentage points.¹⁵⁸

The Thomson facility is unique in some respects. For example, the Department of Defense expects its activities to increase employment by 1,960 to 2,660 positions by the fourth year, but expects few direct hires from the local communities. DOD is also expected to spend \$40 million on capital improvements to open the facility and a similar amount of capital improvements in subsequent years, a higher dollar amount than is usually spent on correctional facility upkeep and improvements. The Federal Bureau of Prisons anticipates hiring 448 correctional officers and 448 medical personnel, food service workers, and other staff. About half the needed workers are expected to come from local areas.¹⁵⁹ Other studies indicate that many prison jobs are filled from

¹⁵⁴ *Seeking Alpha*, “Corrections Corporation of America Fourth Quarter 2009 Earnings Call Transcript,” <http://seekingalpha.com/article/187861-corrections-corporation-of-america-q4-2009-earnings-call-transcript>.

¹⁵⁵ *National Public Radio*, “Michigan Town Weighs Moving Guantanamo Detainees Next Door,” September 1, 2009. http://www.pbs.org/newshour/bb/terrorism/july-dec09/michigan_09-01.html (viewed April 2, 2010).

¹⁵⁶ Carton, Tony, “Sparse Attendance at COGFA Marathon Hearing for Thomson Prison Closing,” *Prairie Advocate News*, December 30, 2009. http://www.prairie-advocate-news.com/12-30-09/thomsonprison12_30_09.html (viewed April 2, 2010).

¹⁵⁷ Executive Office of the President, Council of Economic Advisers, *Technical Memorandum*. November 21, 2009, see <http://www.illinois.gov/publicincludes/statehome/gov/documents/White%20House%20Thomson%20economic%20analysis.pdf> (viewed on April 2, 2010); *Chicago Sun-Times*, “Illinois, Guantanamo north? White House releases economic impact study,” November 21, 2009.

¹⁵⁸ Carton, Tony, “Sparse Attendance at COGFA Marathon Hearing for Thomson Prison Closing,” *Prairie Advocate News*, December 30, 2009. http://www.prairie-advocate-news.com/12-30-09/thomsonprison12_30_09.html (Viewed on April 2, 2010).

¹⁵⁹ Council of Economic Advisers, *Technical Memorandum*. November 21, 2009, <http://www.illinois.gov/> (continued...)

outside the immediate area, particularly the highest-paying, highest skilled positions. The Federal Bureau of Prisons requirements that its correctional officers have some higher education or other outside experience can mean many local residents do not qualify. Further, many prisons centralize their buying from outside sources, rather than local businesses.

Though many local officials credit prisons with stabilizing their economies, some academic studies say prisons have a lesser impact than believed, or even retard economic development by creating a stigma that makes it more difficult to attract other types of investment. A 2007 study by Pennsylvania State University researchers found that prisons have “had no significant economic effect on rural places in general, but ... may have had a positive impact on poverty rates in persistently poor rural counties.”¹⁶⁰ Overall, however, the study concluded there was not convincing evidence that the prison development boom resulted in structural economic change in persistently poor rural places. The study examined prison construction in the United States using a special data base tracking prison data through 1995. It also examined changes in poverty populations as well as other indicators of area-wide economic health in localities that had become prison hosts. A 2004 study by researchers at Washington State University also did not find evidence that prison expansion stimulated economic development.¹⁶¹ Instead, the study suggested that prison construction tamped down growth in rural counties, specifically in counties that were already growing at a slow rate. In higher-growth counties, the impact was not as pronounced. The study looked at 3,100 counties in 48 states, assessing the impact of prison development on growth in earnings, per capita income, and employment.

A 2004 study by Iowa State University researchers examined prisons opened in rural towns between 1990 and 2000.¹⁶² The study looked at 274 new state prisons in 248 small towns, defined as incorporated places with fewer than 10,000 residents. It compared them to nearly 20,000 similar towns that did not have prisons. The researchers found that small towns that acquired a state prison during the 1990s had higher poverty levels, higher unemployment, lower household wages and lower housing values than similar towns without a prison.

(...continued)

publicincludes/statehome/gov/documents/White%20House%20Thomson%20economic%20analysis.pdf.

¹⁶⁰ Glasmeier, Amy K. and Tracey Farrigan, “The Economic Impacts of the Prison Development Boom on Persistently Poor Rural Places,” *International Regional Science Review*, Vol. 30, No. 3 (2007), p. 1. A version of this paper is available at http://www.povertyinamerica.psu.edu/products/publications/prison_development/prison_development.pdf (Viewed on April 2, 2010).

¹⁶¹ Hooks, Gregory, Clayton Mosher, Thomas Totolo and Linda Lobao, “The Prison Industry: Carceral Expansion and Employment in U.S. Counties, 1969-1994,” *Social Science Quarterly*, Vol. 85, No. 1, 2004. pp. 37-57.

¹⁶² Besser, Terry L. and Margaret M. Hanson. “Development of Last Resort: The Impact of New State Prisons on Small Town Economies in the United States,” *Community Development*, vol. 35, Issue 2, (2004). pp. 1-16.

Prisons as Drivers of Economic Development

Although there is a significant debate about the costs and benefits of prisons to local economies, the examples of two small towns, Shelby and Hardin, in Montana illustrate the possibilities and perils of prisons as an economic development tool.

Shelby, MT

Shelby, located in Toole County (population 3,541), Montana, in the northern part of the state, is host to a 660-bed maximum security prison, the Crossroads Correctional Center, which was financed, built, and operated by CCA.

Every five years, Shelby city officials publish a review of the economic impacts of the institution.¹⁶³ According to the most recent review, covering a period through 2008, the prison employs 181 people from Shelby and the surrounding area. It generates \$100,000 to \$150,000 in annual billings for the local medical center, which serves the prison population and people who moved to the area to work at the prison. The prison buys only 5% of its supplies from local Toole County, though it contracts for another 75% from Montana-based businesses. Property values in the county have increased, in contrast to other rural Montana communities which have shown significant declines. It is not possible to say whether the improvement is due to the prison or other factors, such as energy-related development in the area.

The prison has created some strains, including an increase in the number of cases heard at the courthouse. The local police force has had to devote about 1,320 hours from 2005 through 2008 on prison-related work, such as investigating in-prison assaults and serving warrants or civil court summons. There have been fights and gang activity at the prison and, in 2008, CCA had a national security company bring employees in from out of state to fill jobs at the prison.¹⁶⁴ But officials say the costs are more than balanced by the nearly \$500,000 in annual property taxes paid by the prison, and Shelby Mayor Larry Bonderud said the town continues to attract business and has experienced no stigma from the maximum-security facility. Mayor Bonderud said he preferred the higher security institution, in part because it requires higher staffing levels and therefore more local jobs.¹⁶⁵

Hardin, MT

The story is much different in Hardin (pop 3,600) in the southeastern part of the state. The Hardin facility, a speculative prison, has stood vacant since it was completed in 2007, forcing a technical default on \$27.4 million in revenue bonds.¹⁶⁶

¹⁶³ City of Shelby, Montana, *Corrections at the Crossroads, 5-Year Analysis, 10-Year Analysis, Crossroads Correctional Center*, at <http://www.shelbymt.com/Brownsfield/CCC%20Analysis.pdf> (Viewed on April 2, 2010).

¹⁶⁴ Johnson, Peter, "Supporters want Shelby prison in running for expansion," *Great Falls Tribune*, September 14, 2009.

¹⁶⁵ Telephone interview with Larry Bonderud, Mayor, Shelby, MT, February 1, 2010.

¹⁶⁶ Telephone interview with Jeffrey S. McDowell, Executive Director, Hardin Two Rivers Port Authority, January 27, 2010.

According to an audit prepared for the Montana Legislature, the Two Rivers Regional Authority (a port authority created by Hardin for economic development) in 2006 entered into a deal with the Municipal Capital Markets Group, Herbert J. Sims & Co., a construction firm, and other businesses to use the proceeds from \$27 million in bonds to build the prison (which cost about \$19 million), create a debt reserve, and pay other expenses. Fees for housing prisoners were to be used to pay off facility and operating costs. (The price tag included a \$1.6 million fee for arranging the financing). The memorandum noted that a feasibility study prepared by an outside group for the project contained assumptions “that appear to be unfounded.” The audit further noted that the companies that worked with Hardin officials had proposed and built other facilities in other states that had run into financial problems.¹⁶⁷

Rather than spurring development in the small town, the empty prison is impeding efforts by Two Rivers officials to attract new business to the area. The economic development entity’s ability to raise money is clouded by the outstanding bonds. Negative press about the prison has created a sense of notoriety about Hardin.¹⁶⁸

Challenges for Policymakers

There is growing unease among public officials that the U.S. correctional system is too expensive, too punitive, and too large. U.S. Supreme Court Justice Anthony Kennedy, in a speech in California, criticized the state’s three strikes laws, noting that U.S. sentences were much longer than in other countries.¹⁶⁹ Missouri Chief Justice William Ray Price, in an address to that state’s legislature in February 2010, said Missouri could not afford to continue incarcerating so many nonviolent offenders.

We are following a broken strategy of cramming inmates into prisons and not providing the type of drug treatment and job training that is necessary to break their cycle of crime. Any normal business would have abandoned this failed practice years ago, and it is costing us our shirts.¹⁷⁰

In Congress, the growth of the prison system and more recent tension about costs and effectiveness, have given rise to a number of initiatives. The Congressional efforts range from broad efforts to examine the correctional system, to more targeted bills aimed at specific issues such as the cost of inmate telephone service, as well as efforts to monitor inmate communications.

In Congress, the Senate Judiciary Committee favorably ordered to be reported with an amendment in the nature of a substitute the National Criminal Justice Commission Act of 2009 (S. 714), which would establish a commission to (1) review all areas of federal and state criminal

¹⁶⁷ Montana, Legislative Audit Division, *Two Rivers Regional Detention Center in Hardin, Montana*, Memorandum, November 27, 2007. <http://www.cor.mt.gov/content/Resources/CorAdvCouncil/Archive/February2008/AuditorReport.pdf> (Viewed on April 2, 2010).

¹⁶⁸ Telephone interview with Jeffrey S. McDowell, Executive Director, Hardin Two Rivers Port Authority, January 27, 2010.

¹⁶⁹ Williams, Carol J., “Justice Kennedy laments the state of prisons in California, U.S.,” *Los Angeles Times*, February 4, 2010, see <http://articles.latimes.com/2010/feb/04/local/la-me-kennedy4-2010feb04> (Viewed on April 2, 2010).

¹⁷⁰ *Kansas City Star*, “Judge Price Delivers State of the Judiciary Address.” <http://primebuzz.kcstar.com/?q=node/21240> (viewed on April 2, 2010).

justice costs, practices, and policies; (2) make specified findings relating to incarceration, prison administration, the impact of gang activity, drug policy, mental illness among prisoners and the role of the military in crime prevention; (3) make recommendations for changes in policies and laws to address findings; (4) consult with government and nongovernmental leaders, including state and local law enforcement officials; and (5) submit a final report to Congress and the President and make such report public.

In the House, the Family Telephone Connection Protection Act of 2009 (H.R. 1133) was introduced on February 23, 2010, and referred to the Committee on Energy and Commerce. The bill, if enacted into law, would amend the Communications Act of 1934 to direct the Federal Communications Commission (FCC) to consider the following types of regulation of inmate telephone service: (1) prescribing a maximum uniform per-minute rate (paid to telephone service providers); (2) prescribing a maximum uniform service connection or other per-call rate; (3) prescribing variable maximum rates depending on factors such as carrier costs or the size of the correctional facility; (4) requiring providers of inmate telephone service to offer both collect calling and debit account services; (5) prohibiting the payment of commissions by such providers to administrators of correctional facilities; and (6) requiring such administrators to allow more than one service provider at a facility so that prisoners have a choice. As of April 2, 2010, the bill had not been reported out of committee, although a hearing has been held at subcommittee level.

Another bill, the Safe Prisons Communications Act of 2009 (H.R. 560), was introduced on January 15, 2009. The bill, which was referred to the House Energy and Commerce Committee and the House Judiciary Committee, would amend the Communications Act of 1934 to authorize the director of the Federal Bureau of Prisons or the chief executive officer of a state to petition the Federal Communications Commission (FCC) to permit the installation of devices to prevent, jam, or interfere with wireless communications within the geographic boundaries of a specific prison, penitentiary, or correctional facility under his or her jurisdiction.

The Criminal Justice Reinvestment Act of 2009 (H.R. 4080/S. 2772) would authorize the Attorney General to make grants to states, local governments, territories, or Indian tribes to: (1) analyze and improve the cost-effectiveness of state and local spending on prisons, jails, and community corrections; and (2) assist in managing the growth in spending on corrections and increase public safety. Both bills were introduced on November 16, 2009. S. 2772 was referred to the Judiciary Committee. On March 11, 2010, the bill was ordered to be reported favorably with an amendment in the nature of a substitute. On March 22, 2010, the bill was so reported as the Criminal Justice Reinvestment Act of 2010 and placed on the Senate Legislative Calendar. The House has not taken action on the bill.

State legislatures, during their 2010 sessions, are poised to debate proposals to reduce the size and cost of the corrections system, responding in large part to major budget shortfalls. In addition to spending cuts and layoffs approved in 2009, 13 states commissioned task forces or studies related to sentencing and supervision and legislatures this year could act on their recommendations.¹⁷¹ New York has rolled back its three strikes law. Congress as part of the FY2010 appropriations instructed a federal panel that advises the judiciary to review mandatory sentencing policies.¹⁷²

¹⁷¹ National Conference of State Legislatures, Significant State Sentencing and Corrections Legislation in 2009, January 19, 2010. <http://www.ncsl.org/?TabId=19122> (Viewed on April 2, 2010).

¹⁷² Fields, Gary, "U.S. Commission to Assess Mandatory Sentences," Wall Street Journal, November 12, 2009. <http://online.wsj.com/article/SB125798793160144461.html> (Viewed on April 2, 2010).

As states expanding their use of strategies such as early release for nonviolent offenders and greater use of probation and parole, several have been able to realize large reductions in their prison populations. Still, the prison population remains historically high and it is not clear how far-reaching any changes will be. The Vera Institute on Justice points out that budget pressures have also forced reductions in some state programs to reduce recidivism.¹⁷³ The Oregon House recently voted to suspend an early release program for inmates until mid-2011, after complaints that some prisoners incarcerated for violent crimes had been released.¹⁷⁴ In Michigan, Gov. Jennifer Granholm also faces a fight over her plan to further reduce the size of the state prison population.

The federal prison system is still expanding. Private prison companies are anticipating that key states and the federal government will continue to need more prison beds than they can build—and will rely on private firms that have available space and can secure their own financing, thus avoiding thorny financing debates. CCA President and CEO Damon Hininger, in a February conference call, noted that states had “done a little tinkering around the edges” of the prison system.¹⁷⁵

Wholesale changes in policy, we haven’t seen a lot of activity,” Hininger said, adding that while California was talking about new initiatives regarding probation and parole, so far there was not much real activity. “But that ... potentially would be a risk and something we’ll monitor in the short-term, Hininger said.

Though states initially took the lead in efforts to reduce prison spending and incarceration rates, Congress appears poised to assume a larger role. U.S. lawmakers have provided funding for state efforts to reduce recidivism and experiment with alternatives to incarceration. Some members of Congress are scrutinizing federal prison financing and sentencing laws. The scope of further changes will depend on several factors, including the effectiveness of emerging state policies and the health of the economy, which has a direct bearing on federal and state budgets. State and federal decisions, in turn, will likely have wide repercussions, including potential financial impacts on the large and growing number of private companies that serve the prison sector.

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¹⁷³ Scott-Hayward, Christine, *The Fiscal Crisis in Corrections, Rethinking Policies and Practices*, Vera Institute of Justice, July 2009, p. 2 http://www.vera.org/files/The-fiscal-crisis-in-corrections_July-2009.pdf.

¹⁷⁴ Gustafson, Alan, “House Votes to Suspend Early Release, *Salem Statesman Journal*, February 17, 2010, <http://www.statesmanjournal.com/article/20100217/LEGISLATURE/2170439/1042>.

¹⁷⁵ *Seeking Alpha*, “Corrections Corporation of America Q4 2009 Earnings Call Transcript, February 10, 2010, <http://seekingalpha.com/article/187861-corrections-corporation-of-america-q4-2009-earnings-call-transcript> (Viewed on April 2, 2010).